

REVISED CIVIL STATUTES

OF THE

STATE OF TEXAS

TITLE LXXXVII.

The Public Lands.

CHAPTER ONE.

PUBLIC DOMAIN.

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Vacant lands belong to state (Acts Dec. 14, 1837.)
H. D. 44-6.
All public lands retained at annexation. (Joint res., June 23, 1845.)

• Article 4035. [3794] All the vacant lands are the property of the state and subject alone to the disposition of the proper authorities thereof.

Art. 4036. [3795] In order that the provisions of law relating to the public domain may be brought together, the following extract is made from the joint resolutions of the congress of the United States for annexing Texas to the United States, approved March 1, 1845, and the joint resolution of the congress of the republic of Texas assenting to the same, approved June 23, 1845, viz.:

“Said state, when admitted into the Union, * * * shall also retain all the vacant and unappropriated lands lying within its limits, to be applied to the payment of the debts and liabilities of said republic of Texas, and the residue of said lands, after discharging said debts and liabilities, to be disposed of as said state may direct,” etc.

No reservation shall be made. (Const., art. 14, §3.)

Art. 4037. [3796] No reservation of any part of the public domain, for the purpose of satisfying a grant of lands to any railway company in this state, shall ever be made.

Forfeiture on failure to comply, etc. Ib.

Art. 4038. [3797] No land certificate shall be issued to such railway company until it shall have equipped, constructed and in running order, at least ten miles of road, and on the failure of such company to comply with the terms of its charter or alienate its land at a period to be fixed by law, in no event to exceed twelve years from the issuance of the patent, all said land shall be forfeited to the state and become a portion of the public domain, and liable to location and survey.

Same. Ib. §5.

Art. 4039. [3798] All lands heretofore or hereafter granted to railway companies, where the charter or law required or shall hereafter require their alienation within a certain period on pain of forfeiture, or is silent on the subject of forfeiture, and which lands have not been or shall not hereafter be alienated, in conformity with the terms of their charters and the laws under which the grants were made, are hereby declared forfeited to the state and subject to preemption, location and survey as other vacant lands.

Proceedings to forfeit land donations. Ib.

Art. 4040. [3799] All lands heretofore granted to said railroad companies to which no forfeiture was attached on their failure to

alienate, are not included in the foregoing clause, but in all such last named cases it shall be the duty of the attorney-general, in every instance where alienations have been or hereafter may be made, to inquire into the same, and if such alienation has been made in fraud of the rights of the state, and is colorable only, the real and beneficial interest being still in such corporation, to institute legal proceedings, in the county where the seat of government is situated, to forfeit such lands to the state, and if such alienation be judicially ascertained to be fraudulent and colorable as aforesaid, such lands shall be forfeited to the state and become a part of the vacant public domain, liable to pre-emption, location and survey.

Art. 4041. [3800] The state of Texas hereby releases to the owner or owners of the soil all mines or minerals that may be on the same, subject to taxation as other property. Title to mines, etc., released, Ib. §7.

CHAPTER TWO.

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Article 4042. [3801] There shall be one general land office, which shall be at the seat of government, where all land titles which have emanated or may hereafter emanate from the state shall be registered, except those titles the registration of which may be prohibited by the constitution. General land office established, Ib. §1.

Art. 4043. [3802] The commissioner of the general land office shall have custody and control of all books, records, papers, maps and original documents appertaining to the titles of lands heretofore and by the provisions of the law denominated archives; and the said books, records, papers and original documents shall become and be deemed the books and papers of said office. Commissioner to have custody of books, etc. (Act Dec. 14, 1837.) P. D. 71.

Art. 4044. [3803] The said commissioner is hereby authorized to employ one night watchman for the general land office, at a salary not to exceed six hundred dollars per annum. Night watchman. (Act Feb. 27, 1875, p. 56.)

Art. 4045. [3804] Any one desirous to examine any of the papers, records or files in the general land office shall first obtain the consent of the commissioner or the chief clerk in writing so to do, and an order for the detail of a clerk of said office to be present and superintend such examination. Examination of papers, etc., permitted, when. (Act June 2, 1873, p. 180.) P. D. 7099kk.

Art. 4046. [3805] Any paper or document required or permitted by law to be filed in the general land office shall be indorsed by the commissioner, or in his absence by the chief clerk, with ink, "filed," with the date of filing and file number, and signed by the clerk filing the same; and on the wrapper or cover containing said indorsement of filing papers. Ib. §2. P. D. 7099ll.

paper or file shall be indorsed a list with the corresponding numbers of the papers contained in said wrapper or cover, and signed by the clerk making the same, and if several papers constitute a single file they shall be numbered consecutively.

Clerk to be
detailed, etc.,
when.
Ib.
P. D. 709911.

Art. 4047. [3806] When an examination is desired by any person other than an employe of the office, the clerk detailed for such examination, before he shall permit such person to handle such papers or files, shall indorse as required by the preceding article on the cover or wrapper of said papers, numbering them as herein required, and sign his name to said list.

Clerk to ex-
amine papers
after, etc.
Ib. §3.
P. D.
7099mm.

Art. 4048. [3807] After an examination is made, the clerk in charge of same shall carefully examine the papers of said file and see that they correspond with the list on the cover or wrapper, and are all in place.

Lithographic
copies of
maps to be
printed.
(Acts of 1879,
p. 40.)

Art. 4049. The commissioner of the general land office is authorized to contract for the printing and delivery to him of lithographic copies of maps of the various counties of this state; provided, that the cost of such printing and delivery shall not exceed two cents per copy.

To be copy-
righted.
Ib. §2.

Art. 4050. When said commissioner has prepared the official copy of the map of any county from which such lithographic copies are to be printed, he shall copyright the same in the name and for the benefit of the state of Texas, in accordance with the laws of copyright of the United States.

To be sold at
50 cents.
Ib. §3.

Art. 4051. When such copies are received by the commissioner he shall offer the same for sale at not less than fifty cents nor more than one dollar per copy, regulating the price by the amount of labor required in the original compilation of such maps and transcribing same; provided, that when a party desires to purchase at any one time one hundred or more copies of the maps of any county or counties, he shall be allowed a discount on the fixed price of the same of twenty per cent.

Proceeds to
be placed in
state treas-
ury.
Ib. §4.

Art. 4052. All moneys received from the sale of maps, as above provided, shall be paid into the state treasury as are all other fees received by the general land office.

No transfers,
etc., shall be
withdrawn.
Ib. §4.
P. D. 7099nn.

Art. 4053. [3808] No transfer or deed that may be a link in any chain of title to any certificate on file in the general land office shall be withdrawn by any one; but the commissioner shall, on demand, deliver to the interested party certified copies, which shall have the same force and effect as the originals; provided, if in any suit there is any question as to the genuineness of any such original, the commissioner shall deliver the same to the party to whom the same may be ordered by the court where such suit is pending; and in such case it shall be the duty of the commissioner of the general land office to retain in his office a duly certified copy of such original, which, in case of the loss of the original, shall have the same force and effect as the original.

Original cer-
tificate shall
remain on
file.
Ib. §5.
P. D. 7099oo.

Art. 4054. [3809] When the commissioner cancels a patent or permits the floating of certificates he shall not deliver the original certificate, but it shall remain in its original file.

Certificate for
unlocated
balance to
issue, when.
Ib. §6.
P. D. 7099pp.

Art. 4055. [3810] Where a certificate has been located in part the original shall not be withdrawn from the general land office, but the commissioner shall deliver to the interested party a certificate for the unlocated balance, stating whether said certificate can be further divided.

Art. 4056. [3811] When a certificate has been patented the commissioner shall write in ink across the face of said certificate "patented," and sign his name thereto.

Certificate to be indorsed when patented.
Ib. §7.
P. D. 7099qq.

Art. 4057. [3812] When a survey has become forfeited and void from any cause, so soon as such forfeiture is discovered the commissioner shall notify the party interested in such survey or location, in writing by mail, directed to such party at his postoffice address, if known, and if not known, directed to him at the county seat of the county in which the land is situated, of such forfeiture; and no new file or location shall be made on the land covered by such forfeited survey or location, except by the owner of such forfeited survey or location, for a period of ninety days after the mailing of such notice; and the commissioner shall keep a record of the date said notice was mailed and the name of the party to whom the notice was mailed and the name of the postoffice to which said notice was addressed; and the record of such entries shall be prima facie evidence of the facts therein stated, and the absence of such entries shall be prima facie evidence that the notice required above had not been given.

Notice to be given of forfeited survey.
(Acts of 1881, p. 6.)

Art. 4058. [3813] A certificate for an unlocated balance shall be delivered only to the owner, or his agent or attorney; and when the same is delivered to the agent or attorney, the legal authority to receive the same shall be filed with the commissioner.

Certificate to be delivered only to owner.
Ib. §8.
P. D. 7099rr.

Art. 4059. [3814] If the assignee of the original grantee apply for the delivery of any paper, certificate or copy of certificate, if the evidence of title to the assignee is not already on file in the land office, it shall be filed before delivering the same; and the owner shall, by himself or his lawful agent or attorney, file with his other proof of title an affidavit that the party claiming delivery is a bona fide owner.

Before delivery to assignee, evidence of title to be filed.
Ib.

Art. 4060. [3815] When the commissioner has doubts as to the identity of parties, or genuineness of any transfer or power of attorney, he shall not deliver such instrument to the party claiming until such doubtful matters are made clear by such additional proof as he may deem just and reasonable, which proof shall be by affidavits filed with the commissioner.

When commissioner is in doubt, proof, how made.
Ib.

Art. 4061. [3816] No paper, certificate, copy or document, other than a patent, shall be delivered by the commissioner to the owner until he has receipted for the same, in which receipt shall be stated his place of residence, his postoffice, and, if delivered to the agent or attorney, shall state in addition his residence and postoffice, which receipt shall be filed by the commissioner with the other papers; provided, that when the commissioner has good reason to doubt the genuineness of any transfer, power of attorney or other paper on file in the general land office, he shall not permit any one to obtain an official copy thereof until such doubts have been removed.

Receipts for papers, etc.
Ib. §9.
P. D. 7099ss.

Art. 4062. [3817] The commissioner of the general land office and the sureties on his official bond shall be responsible to any party injured by removal, withdrawal or alteration of any record or file in said general land office, unless said commissioner can show that such removal, withdrawal or alteration has taken place by permission of the party owning said file or record.

Commissioner and sureties responsible, when.
Ib. §12.
P. D. 7099uu.

CHAPTER THREE.

LAND DISTRICTS.

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What counties are separate land districts. Article 4063. [3818] Every organized county which shall have been a land district, or having elected a county surveyor, shall have complied with the laws heretofore in force permitting a county to become a land district, is hereby declared a separate land district.

When county becomes a land district, (Acts Jan. 26, 1858.) P. D. 1082. Art. 4064. [3819] When any organized county shall hereafter elect a surveyor, and he shall give bond and be qualified as provided by law, said county shall be a separate land district.

When county to have a surveyor. Art. 4065. [3820] Each county becoming a land district shall have at least one surveyor, who shall keep his office at the county seat; and such office shall be supplied with a map or maps of all the surveys made in such county, with a file or entry book, and a record book of the field-notes of all surveys in the county.

"Land districts" defined. Art. 4066. [3821] All "land districts" now created by law and having a district surveyor shall remain and continue as such, subject, however, to alteration by any organized county within its limits, or any part of such district, becoming a separate land district as provided by law.

County or district failing to organize as separate land district. (Act Feb. 8, 1860.) P. D. 1090. Art. 4067. [3822] Any organized county or newly created district which may fail or refuse to organize as a separate land district as provided by law shall continue to form a part of the land district to which it was formerly attached until it shall have complied with the provisions of law relating to the election and qualification of a surveyor, and until such surveyor shall have procured the necessary maps, field-notes copies and records as required by law.

Unorganized counties attached for land purposes, etc. (Amend. 1895, Sen. Jour., p. 481.) Art. 4067a. Each county in this state that is unorganized, or that has not so completed its organization as to become a separate land district under the requirements of the law, shall be attached to some organized county for surveying purposes, and the county surveyor of such organized county shall be the surveyor for the land district thus constituted, and the records of all files and surveys of land in such district shall be kept at his office.

Counties attached. Ib. Art. 4067b. The land districts composed of more than one county are defined and the unorganized counties are attached for surveying purposes as follows:

(Act 1883.) 1. The counties of Armstrong, Carson and Randall are attached to Donley county.

(Act 1887.) 2. The counties of Andrews and Gaines are attached to Martin county.

Ib. 3. The counties of Bailey, Cochran and Hockley are attached to Crosby county.

(Acts 1883, 1889.) 4. The counties of Borden, Dawson, Lynn, Yoakum, Terry and Glasscock are attached to Howard county.

(Act 1883.) 5. The counties of Greer, Collingsworth, Hutchinson, Hansford, Ochiltree, Roberts, Hemphill and Lipscomb are attached to Wheeler county.

6. The counties of Crane, Ector and Upton are attached to Mid-land county. (Act 1889.)
7. The county of Lamb is attached to Baylor county. (Act 1881.)
8. The county of La Salle is attached to Nueces county. (Act 1874.)
9. The counties of Loving, Ward and Winkler are attached to Reeves county. (Act 1877.)
10. The county of Stonewall is attached to Young county. (Act 1876.)
11. The county of Schleicher is attached to Menard county. (Act 1887.)
12. The counties of Crockett and Edwards are attached to Bexar county. (R. S. 1879, art. 3833.)
13. The counties of Dallam, Moore, Parmer, Potter and Sherman are attached to Oldham county. (Act 1883.)
14. The county of Encinal is attached to Webb county. (Act 1885.)
15. The counties of Foley and Buchel are attached to Brewster county. (Act 1889.)
16. The counties of Garza and Kent are attached to Scurry county. (Act 1887.)
17. The counties of Irion and Sterling are attached to Tom Green county.
18. The county of Jeff Davis is attached to Presidio county.
19. The county of King is attached to Knox county. (Act 1887.)

CHAPTER FOUR.

COUNTY AND DISTRICT SURVEYORS.

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Article 4068. [3834] At each regular biennial election for state and county officers there shall be elected in each county, by the qualified voters thereof, a county surveyor, who shall reside in the county and keep his office at the county seat, who shall hold his office for two years and until his successor may be elected and qualified.

Art. 4069. [3835] Before entering upon the duties of county surveyor each person shall take the oath of office prescribed by the constitution, and shall enter into bond with two or more good and sufficient sureties to be approved by the commissioners' court of the county, in the sum of ten thousand dollars, payable to the governor and his successors in office, conditioned that he will faithfully perform the duties of his office, which bond shall be deposited and recorded in the clerk's office of said county.

County surveyor, when elected. (Const., art. 16, §44.) (Acts Jan. 26, 1858, p. 199; Aug. 19, 1876.)

Oath and bond required. (Act Dec. 14, 1837.) P. D. 1081, 4522.

Commissioners' court to fill vacancy.
(Act Aug. 19, 1876, p. 219.)

Art. 4070. [3836] Whenever there shall be a vacancy in the office of county or district surveyor in any of the counties, it shall be the duty of the county commissioners' court of the county in which such vacancy occurs to fill by appointment such vacancy, such appointment to continue in force until the next general election.

Duties of county surveyor.
(Act Dec. 14, 1837.)
P. D. 4522.

Art. 4071. [3837] Each county surveyor shall receive and examine all field-notes of surveys which have been or may hereafter be made in said county, and upon which patents are to be obtained, and shall certify to the same according to law, and shall record such field-notes in a book to be kept by him for that purpose; and he shall perform such other duties as may be required of him by law.

Surveyor to report to commissioners' court as to inclosed school lands.
(Acts of 1879, p. 101.)

Art. 4072. It shall be the duty of the surveyor of each county to make a report to the county commissioners' court on the first Monday in June each year of the number of sections of public school lands in his county inclosed during the past year, and the names of the person or persons controlling such inclosed lands, and the number of sections controlled by him or them respectively.

Shall record all field-notes in his district.
(Acts of 1881, p. 71.)

Art. 4073. The surveyors of the several counties of this state shall record in a well-bound book all the surveys in the county or district for which he was elected, with the plats thereof that he may make, whether private or official, and such record shall be open to the inspection of the public; for which service the surveyor may charge, in addition to the fees now allowed by law for field work, twenty cents per hundred words for such record.

Shall plat surveys upon map, etc.
(Act Jan. 26, 1858.)
P. D. 1087.

Art. 4074. [3838] It shall be the duty of every district, county and special county surveyor, once in every three months, to plat upon the map of his district or county all surveys made to that date within the three preceding months, and transmit sketches and field-notes of same to the commissioner of the general land office, together with a list of all land certificates or warrants on file in his office, giving the number, date and quantity in acres of each, stating by whom and to whom the same purports to have been issued, and when and by whom filed; and any surveyor failing or refusing to comply with the provisions of this article shall be subject to a fine of five hundred dollars for each offense, to be recovered by the state before the district court on complaint of any party aggrieved, or of the proper county or district attorney, whose duty it shall be to prosecute all such suits. A certificate from a postmaster certifying that a letter or package containing the returns herein provided for was mailed in his office, addressed to the commissioner of the general land office, shall be evidence of the fact in any suit against a surveyor under this article.

Record books furnished.
(Act March 9, 1875; Feb. 2, 1860.)
P. D. 1089.

Art. 4075. [3839] The commissioners' courts of the several counties shall furnish the county surveyors of their respective counties with the necessary books of record pertaining thereto.

Deputies appointed; oath and bond required, etc.
(Act Dec. 14, 1837.)
P. D. 4522.

Art. 4076. [3840] The county or district surveyor shall appoint as many deputy surveyors as he may deem necessary for the county or district, and shall administer to them the oath of office, and take the bond hereinafter prescribed, and shall furnish them such instructions as may be furnished to him from time to time by the commissioner of the general land office; and such deputy surveyor, before he enters upon the duties of his office, shall enter into bond with two or more good and sufficient sureties, to be approved by the commissioners' court, in the sum of five thousand dollars, payable to the governor and his successors in office, conditioned for the faithful performance of the duties of his office, which bond shall be deposited

and recorded in the clerk's office of the same county; and the county or district surveyor shall immediately report such appointment to the commissioner of the general land office, and state when such deputy entered upon the discharge of the duties of his office.

Art. 4077. [3841] It shall be the duty of each deputy district or county surveyor to administer an oath to each individual employed by him as chain carrier or marker for the faithful performance of his duties as such, in accordance with the instructions given him; and no person under the age of sixteen years shall be employed in either of the above capacities; and further, it shall be the duty of said deputy to subscribe the name of each of the chain carriers to his field-notes previous to returning the same to the county surveyor.

Chain carriers and markers. (Act Dec. 14, 1837.) P. D. 4523.

Art. 4078. [3842] It shall be the duty of all deputy surveyors to make returns of the field-notes of every survey by them made, within three months after making the survey, to the county or district surveyor for his approval; and any deputy neglecting to do so shall be liable for damages at the suit of any person thereby injured.

Deputy surveyors shall return field-notes. (Act Feb. 5, 1840.) P. D. 4112.

Art. 4079. [3843] Any county surveyor may do the work of a practical surveyor, and may also perform all the duties required of a deputy surveyor, and in such case he shall make out, certify to, record and return the field-notes under his own official signature.

County surveyor may do work of deputy. (Act Dec. 20, 1837.)

Art. 4080. [3844] It shall be the duty of each county or district surveyor to make out and keep in his office, free for the inspection of all persons, a map on which all the surveys made in his county shall be laid down and properly connected; which map shall be corrected at the end of every three months.

Shall keep a map in his office for inspection. (Act Feb. 5, 1840.)

Art. 4081. [3845] Hereafter, when any change may take place in the boundaries of any county, it shall be the duty of the surveyor of any county from which territory may be so taken, to furnish the surveyor of the county including such territory with a full and complete copy of all the field-notes of surveys made in the same.

Duty on change of boundary. (Act Feb. 5, 1840.)

Art. 4082. [3846] Whenever the election of any person to the office of county or district surveyor may be contested, like notice shall be given and proceedings had as in case of contested elections for county officers. When the district is composed of one county the contest shall be tried in such county, but where the district is composed of more than one county, then such contest shall be tried in the county from which the district takes its name.

Contested elections, by what court tried. (Act Feb. 7, 1853.)

Art. 4083. [3847] All district surveyors shall be governed in the discharge of their official duties by the same provisions of law which regulate and prescribe the duties of county surveyors so far as the same may be applicable, and upon their removal from office or at the expiration of their term of office they shall deliver to their successors all records, books, papers, maps and other things appertaining to the office.

Their duties, how regulated. (Act May 12, 1846.)

Art. 4084. [3848] Each district surveyor shall appoint one or more deputy surveyors, who shall qualify and give bond in manner and form as required of deputy county surveyors, and whose duties shall be the same as those of deputy county surveyors so far as the same may be applicable; and when such surveyor does the work of surveying in a new county he shall notify the special county surveyor acting under his direction, and report his work to him to be mapped and noted on his records.

Deputy district surveyors.

Art. 4085. [3849] It shall be the duty of each district surveyor, within twenty days after his election, to appoint as his deputy a special county surveyor for each unorganized county within his dis-

Special county surveyor for unorganized county. (Act Jan. 26, 1858.) P. D. 1085.

trict, who shall hold his office during the term of his principal, unless sooner superseded by the appointment of another as his successor. The district surveyor shall immediately notify the commissioner of the general land office of every such appointment. Each special county surveyor so appointed shall have all the powers, perform all the duties and be subject to all the penalties appertaining to county surveyors, and shall keep, in addition to the returns to be made to his principal, a record and map of all the transactions in his office, to become part of the county surveyor's records of such county whenever it may be organized. All such special county surveyors shall reside and keep their offices in their respective counties, if there be settlements in the same, but if there be no settlements in the county, then at the nearest town to such county. Whenever any county may elect a county surveyor, who shall have qualified and given bond, and who shall have procured the maps and records required by law, the district surveyor within whose district such county may have been or may be at the time, and his deputy shall cease to exercise any official acts within the same.

Deputy surveyor of new county to procure maps. (Act May 11, 1846.)
P. D. 4276.

Art. 4086. [3850] Deputy surveyors of the several new counties shall procure from the district surveyors of their respective districts, or make out the same, a map of all the surveyed lands situated in the new county to which such deputy may be assigned, which shall be kept in the office of such deputy at the county site, for the inspection of all persons interested.

Surveys of deputy to be placed on map.
Ib.
P. D. 4277.

Art. 4087. [3851] All surveys made by a deputy surveyor in a new county, after being examined and placed upon the map of the district, shall be placed upon the county map.

Surveys in unorganized counties. (Act Feb. 8, 1860.)
P. D. 1091.

Art. 4088. [3852] In any unorganized county to which a special deputy surveyor may have been appointed, or may hereafter be appointed, the district surveyor of the land district to which it is attached or his deputies may make surveys, the field-notes of which shall be recorded in a separate book for each of such unorganized counties, and also in the ordinary record books of the land district; but before making such surveys he shall notify the special deputy surveyor thereof and afterward report the field-notes to him, to be mapped out and noted on his records.

Special deputies, bond, etc.
Ib.
P. D. 1092.

Art. 4089. [3853] The district or county surveyor of any county shall have the power to appoint a special deputy, who shall be empowered to perform all official acts which said district or county surveyor may legally perform, and the said special deputy surveyor, before entering on the discharge of his duties, shall give bond with two or more good and sufficient sureties, in the sum of five thousand dollars, payable to the governor, for the faithful discharge of the same, which shall be approved by the commissioners' court of the county and filed with the county clerk thereof.

Surveyor not authorized to survey, until, etc. (Act Jan. 26, 1858.)

Art. 4090. [3854] Before any surveyor, elected as provided by law, in a county not previously a separate land district, shall receive any file or location of a certificate, or any application for a homestead donation, or make any survey therein, he shall procure a certified map of the surveys in said county, and a certified copy of all files, applications and locations of lands therein from the surveyor's office of the land districts to which said county belonged, and file the same in his office for the inspection of any one interested in examining the same.

Art. 4091. [3855] When the surveyor shall have complied with the provisions of the preceding article, it shall be his duty immediately to make out and return to the general land office field-notes, properly certified to, of the boundaries of such county; and the commissioners' court of said county shall make the necessary provision for paying the expenses thereof.

Art. 4092. [3856] Whenever the maps, field-notes of surveys or other records, or any part thereof, of the surveyor's office in any county or land district shall from any cause be lost or destroyed, or when any new county shall organize, or new land district is created, it shall be the duty of such county or district surveyor to obtain from the commissioner of the general land office a transcript of such maps, field-notes of surveys or other records of his office of his county or land district, certified to as required by law, and for obtaining which he shall be entitled to five cents per hundred words, and the state shall be entitled to ten cents per hundred words, to be paid by the commissioners' court of his county; said transcript of records so certified shall answer all the purposes and have the same force and effect in law that the original could have.

Art. 4093. [3857] The district and county surveyors are authorized to rent some suitable building or room in which to keep their offices in case the said surveyors can not be provided with offices in the court houses of their respective counties.

Art. 4094. [3858] The county commissioners' court shall make the necessary arrangement for paying the rent of an office rented by said surveyors, upon satisfactory evidence showing that the rent was reasonable and the office necessary, and that there was no office provided for said surveyors in the court house of their county.

Art. 4095. [3859] In all cases where the county surveyors do not reside at the county seats of their respective counties they shall and are hereby required to have deputies in their respective offices residing at said county seats, who shall keep their offices open and the records thereof subject to the examination of any person interested therein, and who shall have authority to receive and file land certificates or other evidences of right to land, and also to receive and record all files or designations of land to be surveyed.

Art. 4096. [3860] Any certificate of claim to land, which has been or may be obtained in the manner and form prescribed by law, shall be sufficient evidence to authorize any lawful surveyor to survey for any person holding such certificate any lands which he may point out agreeably to all the laws which do now or may hereafter exist on that subject; provided, that where more than one application is made for the same tract of land to be surveyed, the settler or occupant shall have the preference if their claims be otherwise equal.

Art. 4097. [3861] In all cases where there is more than one claimant to the same location, or in case there be more occupant claimants than one, the conflicting claims shall be summarily tried by the nearest justice of the peace, and six disinterested jurors summoned for that purpose, who shall in all cases give preference to the oldest occupant and settler; and upon their decision the surveyor shall grant to the successful party the field-notes of the tract of land.

Art. 4098. [3862] Any person interested for himself, or as agent or attorney of another, shall at all times have the right to examine the books, papers, plats, maps or other archives belonging to the office of any district, county or special surveyor, on the payment of the fee fixed by law.

Shall return field notes of new county. Transcript to be obtained from land office, when. (Acts of 1885, p. 92; amend. 1895, Sen. Jour., p. 482.)

Authorized to rent office. (Act Aug. 18, 1876, p. 196.)

Rent of office, how paid. Ib.

To have a deputy in office, when. (Act Feb. 25, 1863.) P. D. 1093.

Authority to survey. (Act Dec. 14, 1837.)

Conflicting claims settled by jury. Ib.

Right to examine books, etc. (Act Jan. 26, 1858.) P. D. 1086.

Right to demand statement, when.
(Act Jan. 26, 1858.)
P. D. 1086.

Art. 4099. [3863] Whenever an applicant calls upon a district, county, deputy or special surveyor to make an entry for location on his books, and shall be informed that the land indicated by the applicant has already been located, or located and surveyed, the applicant may demand of the surveyor a certificate in writing, setting forth the time at which the entry, location and survey, or either, was made, at whose instance, upon what certificate or warrant, and all the facts in the case, which certificate shall be held good evidence in law and equity against such surveyor in any suit brought against him to test the truth of the certificate and recover damages by the applicant; and any surveyor refusing any examination of his books and archives, or to give the certificates as herein provided, shall be subject to a fine of five hundred dollars for each offense, to be recovered before the district court by the party injured.

Transcripts, etc., by whom paid for.
(Act March 20, 1848.)
P. D. 1078.

Art. 4100. [3864] The transcript of records and maps, together with the examination of the same, shall be paid for by the county for the benefit of which they are made, allowing ten cents for every one hundred words in copying said records, and three dollars per day for each day the draftsman may be actually and necessarily engaged in copying maps, as provided by law; and clerks and district surveyors for examining and certifying transcripts of records shall have three dollars per day.

Surveyors to establish true meridian, etc.
(Act June 2, 1873, p. 173.)
P. D. 7099sss.

Art. 4101. [3865] The district or county surveyors of the several counties, in order to secure uniformity in the courses indicated by the different surveyors' compasses or other instruments used within their several jurisdictions, shall, in some convenient place at their respective county seats, establish a true meridian by a substantial monument, to be erected at the expense of the county, and shall adjust, or cause to be adjusted to the said meridian, all such instruments before being used within their respective jurisdictions, and shall keep in their offices a standard chain of the true measurement of ten varas, to which all chains used by themselves or their deputies shall be adjusted before being used in the measurement of lines of surveys.

Responsible for neglect or failure, etc.
Ib.
P. D. 7099ttt.

Art. 4102. [3866] All surveyors shall be held responsible to parties interested for any cost that may accrue in rectifying any errors that may occur in their work by reason of neglect or failure to comply with the requirements of the preceding article.

Shall turn over records, etc.
(Act May 12, 1846.)
P. D. 4525.

Art. 4103. [3867] Upon the removal from office, or at the expiration of the term of office, of any county or district surveyor, he shall deliver to his successor all records, books, papers, maps and other things appertaining to his office.

County clerk shall take charge of books, etc., when.
(Act Oct. 18, 1866, p. 31.)

Art. 4104. [3869] Whenever an organized county from any cause has not a qualified county surveyor, the county clerk of such county is hereby required to take charge of all records, maps and papers belonging to the county surveyors' office and safely keep the same in his office.

Surveyor's records may be transcribed.
(Act Nov. 6, 1871, p. 18.)

Art. 4105. [3870] Whenever the county commissioners' court of any county shall deem the same necessary, they shall order the surveyor's records to be transcribed in good and substantial books, in a plain hand, by the surveyor or special deputies sworn to make true copies of the same, for which services they shall be allowed not more than ten cents per hundred words, to be paid out of the county treasury.

CHAPTER FIVE.

LAND CERTIFICATES.

| Article | Article |
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| When unlocated balance issues.....4123 | trict courts4128 |
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| changed4124 | cates, when4129 |

Article 4106. All laws and parts of laws granting lands or land certificates to any person, firm, corporation or company for the construction of railroads, canals and ditches, are repealed.

Articles repealed.
(Sen. Jour.,
1895, p. 482.)
Ib.

[Note.—The foregoing repealing act repeals original article 4106 (3871), and articles 4107 (3872), 4108 (3873), 4109 (3874), 4110 (3875), 4111 (3876), 4112 (3877), 4113 (3878), 4114 (3879), 4115, 4116, 4117, and 4118 (3882).]

Art. 4119. [3883] Whenever any headright certificate, soldier's discharge, bounty warrant, donation warrant or any other land certificate described in this chapter shall have been lost or destroyed a duplicate thereof may be issued by the commissioner of the general land office as hereinafter provided.

Duplicate certificates may be issued, when.
(Act May 11, 1846.)
P. D. 4122.

Art. 4120. [3884] Whenever any of the above mentioned certificates or evidence of claim to land may have been lost or destroyed the owner thereof, or his agent or legal representative, shall cause a notice of such loss or destruction to be published for eight successive weeks in some weekly newspaper published in the county where such person, his agent or legal representative resides, or in the nearest county if none be so published, and such notice shall describe substantially, or as near as can be, the certificate or paper lost, and shall further state that unless intelligence of the same is received by him, or by the commissioner of the general land office, within three months of the date of said publication, he will apply to the proper officer for a duplicate of the certificate or paper so lost or destroyed.

Notice to be published for eight weeks.
(Act Jan. 14, 1840.)
P. D. 4123.

Art. 4121. [3885] When any person shall apply for a duplicate of any such certificate or claim against the government, he shall be required to prove by the affidavit of the printer or publisher, duly made before some officer authorized to administer oaths, that the notice has been published as required in the preceding article; and he or his agent shall take and subscribe an oath before some officer, authorized as aforesaid, to the following effect: That he is the just owner of the said certificate or claim [describing it]; that he has not sold, alienated nor transferred the same in any manner; that it has been lost [or destroyed, as the case may be], and that since lost [or destroyed] he has not known or heard of the existence of the same. And he shall file said proof and affidavit in the general land office; and when the assignee of the original grantee applies for such duplicate, the evidence of this title shall be filed in the general land office, if not already on file; whereupon, if it shall appear to the commissioner of the general land office that the certificate or claim so lost or destroyed is a genuine and subsisting claim against the

Proofs to be made.
Ib.
P. D. 4124.

government, and that the provisions of this article have been fully complied with, no intelligence of said certificate or claim having been received by him, it shall be his duty to issue to the claimant, in the name of the original grantee, a duplicate certificate under his hand and the seal of his office, entitling him to the same quantity of land as was conferred by the original; provided, that administrators and the legal representatives of deceased owners shall not be required to take the oath above prescribed; and provided further, that when an agent or attorney applies for such duplicate, his legal authority to receive and receipt for the same be filed before delivery.

Joint owners
may join or
sever in affi-
davit.
(Act Feb. 7,
1852.)
P. D. 4127.

Art. 4122. [3886] When any certificate or evidence of claim to land mentioned in this chapter shall be owned by two or more parties, and the same shall be lost or destroyed, the parties owning the same may jointly or severally make the affidavit required of such owner.

When unlo-
cated balance
certificate
may be issued.
(Act Jan. 10,
1850.)

Art. 4123. [3887] When two or more surveys have been made by virtue of any legal claim to lands and patents obtained therefor, if it shall appear by the district or county maps in the general land office, or by a plat or sketch giving a connection of the adjacent surveys certified to by the district or county surveyor and returned to said office, that the survey last made is so circumscribed by other surveys that no more vacant land can be obtained in that place, and the survey or surveys already made do not satisfy the claim, the commissioner of the general land office shall issue, on demand, to the owner or holder of said claim, a certificate for the unlocated balance thereof, which may be located, surveyed and patented as other certificates.

When location
in conflict,
may be
changed.
(Acts of 1879,
p. 20, S. S.)

Art. 4124. [3888] Whenever the field-notes of a survey have been returned to the general land office, and upon examination the same are found to be in conflict with previous claims, it shall be lawful for the rightful claimant of the certificate so located in conflict to file his affidavit with the commissioner, setting forth that the certificate was not intentionally so located in conflict, but that he believed at the date of such location that the land covered thereby was vacant and unappropriated public domain; to abandon said survey and surrender all claim thereto by reason of the file, entry and survey made by him, and to receive from the commissioner a copy of the certificate on which the same was based, if such certificate be valid and genuine; and it shall be the duty of the commissioner to indorse upon the said copy that the original certificate is floated, and the county where the land is situated which is covered by such floated certificate, and that the copy is given in lieu of the original, but without any prejudice to the rights of any person by virtue of said certificate, and that the said copy may be located upon any unappropriated or vacant land.

When patent
cancelled, a
duplicate cer-
tificate may
issue.
(Acts Feb. 3,
1854; June 2,
1873, p. 180, §5.)
P. D. 4301-2.
P. D. 709900.

Art. 4125. [3889] Whenever any patent to land has been cancelled according to law, it shall be the duty of the commissioner of the general land office to issue to the owner, his agent or legal representative, on his demand, a duplicate of the original certificate, or a certificate for the unlocated balance of said certificate, as the case may be, which may be located and surveyed and patented upon as in other cases; and the commissioner shall certify upon such certificate that the original patent has been cancelled, the county where the land is situated, and that the duplicate or certificate is given in lieu of the original, but without any prejudice to the rights of any person.

Art. 4126. [3890] Whenever any genuine land certificate has been located and surveyed in part, and the same, with the field-notes, has been returned to and filed in the general land office, it shall be the duty of the commissioner of the general land office to issue to the owner thereof, his agent or legal representative, on demand, a certificate for the unlocated balance of said original, stating thereon the number and amount of locations made on the original, and the same may be located, surveyed and patented as in other cases.

Where surveyed in part certificate for unlocated balance to issue. (Act June 2, 1873, p. 180, §6.) P. D. 7099pp.

Art. 4127. [3891] When any person may have applied for and obtained a duplicate land warrant, headright or other land certificate, or certificate for unlocated balance, under the provisions of this chapter, and the same may have been lost or destroyed, such person shall be entitled to demand and receive a triplicate thereof, or other certificate of unlocated balance, by complying with the provisions hereof in reference to obtaining duplicate certificates or certificate of unlocated balance.

Triplicate certificate, when obtained. (Act Nov. 27, 1861.) P. D. 4158.

Art. 4128. [3892] All certificates heretofore or that may be hereafter issued by the supreme or district courts, in accordance with the provisions of an act passed by the fifth congress of the republic of Texas, approved February 4, 1841, shall be as valid and legal as if issued by any other legal authority.

Certificates issued by supreme and district courts validated. (Act March 28, 1848.) P. D. 4237.

Art. 4129. [3893] The commissioner of the general land office is hereby authorized to issue to all persons and corporations such land certificates as they may be entitled to under any general or special law.

Commissioner authorized to issue certificate. (Act March 6, 1863, p. 23, §1.)

CHAPTER SIX.

ENTRIES AND LOCATIONS.

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Article 4130. [3894] Each county, district and special deputy surveyor shall keep in his office a well-bound book as a register of entries, in which he shall register all entries or applications for land in his county or district.

Surveyor shall keep a register of entries. (Act Aug. 30, 1856.) P. D. 4573.

Art. 4131. [3895] An entry or application shall be in writing, and be dated and signed by the applicant. It shall particularly describe the claim to be surveyed and the land applied for; which entry or application, together with the land certificate or scrip, or other legal evidence of title to be surveyed, shall be filed in the office of the county or district surveyor in which the land is situated; and where the said claim to be surveyed shall remain until returned, together with the field-notes, to the general land office.

Entry, etc., how made. Ib.

Art. 4132. [3896] The survey shall be made by a copy of the entry or application, and strictly in accordance with the same; and hereafter no survey shall be made until after entry or application, as provided in the preceding article.

Survey, how made. Ib.

Shall confer a preference right.

Art. 4133. [3897] Every entry or application, made according to the two preceding articles, shall confer a preference right of location or survey over any subsequent entry or application.

Certificate not to be lifted after entry.
Ib. §2.
P. D. 4574.

Art. 4134. [3898] It shall not be lawful for such surveyor to allow the holder of any land certificate or scrip, or other legal evidence of title to land, to lift or float the same after entry, location, file or survey, when the same is not made upon land previously appropriated. But when a conflict of entries, files, locations or surveys occur, upon a proper showing of the facts, which may be by the certificate of one of his deputies or from his knowledge, he shall allow the party having his entry, file, location or survey of subsequent date, to lift so much thereof as shall be affected by such conflict.

Effect of location on a valid title, etc.
Ib.
P. D. 4575.

Art. 4135. [3899] Whenever an entry is made by virtue of a genuine certificate, upon any land which appears to be appropriated, deeded or patented, by the books of the proper surveyor's office, or records of the county court or general land office, the party making such entry shall abide by the same. And in the event that judgment final shall be rendered against the right of the party making such entry to hold such land, he shall not have the right to lift or re-enter said certificate. But the same shall be forfeited, and so declared to be by the judgment of the court.

Certificate may be relocated on same land, when.
(Act Feb. 10, 1852.)
P. D. 4563.

Art. 4136. [3900] Any person holding a genuine certificate or other legal evidence of right to land under the republic or state of Texas, and having a survey made by virtue of the same, the field-notes of which may not have been returned to the general land office before the period prescribed by law, shall have the right to relocate the same certificate or other evidence of legal right to land, upon the same survey, but without being compelled to have the same resurveyed; provided, said survey shall not have been previously located by some other person by right of a genuine land claim.

Relocation, how made, etc.
Ib.
P. D. 4564.

Art. 4137. [3901] Any person wishing to avail himself of the privilege of relocating the same land claim upon the same land, as permitted by the preceding article, shall present his land claim, or cause the same to be done for that purpose, to the district or county surveyor, as the case may be, of the district or county where the field-notes were first recorded, who shall duly enter such relocation upon the record of field-notes of the office, and duly certify the same to the commissioner of the general land office, which shall be sufficient authority for him to issue the patent for the land so relocated as in other cases.

Surveys shall be made within twelve months.
Ib.
P. D. 4568.

Art. 4138. [3902] All lands which may be located by entry or application, as aforesaid, shall be surveyed within twelve months from the date of entry or the same shall be null and void and the lands be subject to relocation and survey; but such lands shall not in any case be subject to relocation at any time by the same certificate.

May be made in more than two places.
Ib.
P. D. 4532.

Art. 4139. [3903] Locations of land by entry or application may be made in more than two places by virtue of any genuine land certificate, bounty warrant or other legal evidence of claim to land; provided, such other places be bounded by previous surveys and shall be enough to satisfy only a part of said claim.

Where land lies in two or more districts may be located in either.

Art. 4140. [3904] Whenever it appears that an entry or location is made on the boundary of any county or land district, and a part of the land so entered or located upon is in the adjoining county or land district, the same shall be as valid and legal as if the land were

situated entirely within the county or land district in which such entry or location was made; and it shall be the duty of the county or district surveyor to make out a certified copy of such entry or location and forward the same to the county or district surveyor of the county or district affected thereby.

Art. 4141. [3905] It shall be the duty of the county or district surveyor receiving the entry or location mentioned in the preceding article, and which purports to locate part of the land within his district or county, to record the same as if such entry or location had been made in his own district or county.

Surveyor to record such location.

CHAPTER SEVEN.

SURVEYS AND THE FIELD-NOTES THEREOF.

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Article 4142. [3906] All surveys shall be made by authority of law, or under or by virtue of some genuine land certificate which is at the time on file in the county or district surveyor's office where the land is situated, and by a county, district or deputy surveyor duly appointed or elected and qualified.

What authorizes a survey.

[Note.—Article 4143 (3907) omitted as repealed by the report of the joint committee on amendments to the Revised Civil Code; No. 64, Sen. Jour., p. 482.]

Art. 4144. [3908] The field-notes of every survey shall state—

Field-notes shall describe, what.

1. The county or land district in which the land is situated.

2. The certificate or other authority under or by virtue of which is made, giving a true description of same by numbers, date, when and where issued, name of original grantee and quantity.

3. The land by proper field notes with the necessary calls and connections for identification (observing the Spanish measurement by varas).

4. A diagram of the survey.

5. The variation at which the running was made.

6. It shall show the names of the chain carriers.

7. It shall be dated and signed by the surveyor.

8. The correctness of the survey, and that it was made according to law, shall be certified to officially by the surveyor who made the same; and also that such survey was actually made in the field, and that the field-notes have been duly recorded, giving book and page.

9. When the survey has been made by a deputy the county or district surveyor shall certify officially that he has examined the field-notes, has found them correct, and that they are duly recorded, giving book and page of record.

Art. 4145. [3909] The field-notes of all surveys shall be returned to and filed in the general land office within twelve months from the date of survey.

Surveys to be returned in twelve months (Act Feb. 10, 1852.)
P. D. 4566.

Copy obtained
on loss of
original field-
notes.
Ib.
P. D. 4552.

Art. 4146. [3910] When the original field-notes of any survey made by authority of law shall have been heretofore or may be hereafter lost or destroyed, it shall be lawful for the party who owned the same or his agent, on making affidavit of the loss or destruction of such field-notes and filing the same in the office of the county or district surveyor, to apply to such surveyor of the county where the survey was made and recorded and obtain from him a certified copy of the record thereof, which copy shall be as valid and efficient in law as the original was, and shall secure to the party all the rights before the commissioner of the general land office that the original would have done.

Surveys on
navigable
streams.
(Act Dec. 14,
1837.)
P. D. 4529.

Art. 4147. [3911] All lands surveyed for individuals, lying on navigable water courses, shall front one-half of the square on the water course and the line running at right angles with the general course of the stream, if circumstances of lines previously surveyed under the laws will permit; and all streams, so far as they retain an average width of thirty feet, shall be considered navigable streams within the meaning hereof, and they shall not be crossed by the lines of any survey.

Surveys shall
be in a
square.
Ib.

Art. 4148. [3912] All surveys not made upon navigable water courses shall be in a square, so far as lines previously surveyed will permit.

Two or more
surveys per-
mitted, when.
(Act Feb. 10,
1854.)
P. D. 4522.

Art. 4149. [3913] Two surveys may be made under any genuine land certificate, and more than two surveys may be made thereunder, provided the land to be located be bounded by previous surveys, and shall be enough to satisfy only a part of said claim, which fact shall be specially certified to by the surveyor making the survey.

Notice to
settlers.
(Act Dec. 14,
1837.)
P. D. 4528.

Art. 4150. [3914] It shall be the duty of the surveyor in all cases, before he runs a division line between two settlers or occupants claiming lands, to notify in writing the parties interested before running the same; and any survey which may be made contrary to the true intent and meaning of this article shall not be a lawful one.

Trial as to
disputed line
before justice
of the peace.
Ib.
P. D. 4527.

Art. 4151. [3915] When two or more persons can not agree to a division line of any land which has never been surveyed agreeably to law, it shall be lawful for either party to apply to any justice of the county or territory in which the land lies, or if there be no justice of the peace in the county or territory, then to the nearest justice in any county or territory, and make oath that he has tried and has not been able to settle the dispute between himself and one or more other persons (naming them) concerning a division line, and the said justice shall issue a warrant to any lawful officer to summon the party or parties defendant, together with six disinterested jurors, to meet upon the premises in dispute, together with such witnesses as either party may choose to have summoned, to give evidence on a certain day, naming at what time and place; the justice shall also meet the parties, examine all the testimony before the jury, who shall on oath hear and determine the case in dispute, and shall also determine who shall pay the costs of suit; each juror in such case shall be allowed two dollars per day for such services; the other officers, such fees as have already been established by law for other similar services; provided, that if the land in dispute shall be on a county line, it shall be lawful for a justice of either county, in which part of the land may be to act in such case; and in case either party be dissatisfied with the decision they shall have the right to appeal to the county court within ten days upon giving bond and security for the costs.

Art. 4152. [3916] All surveys represented upon the maps of the general land office, the field-notes of which shall not be returned to the general land office, under the provisions of this chapter, and for which there are no titles on file in said office, shall be null and void, and be stricken from the maps of said office, when it is made to appear to the commissioner of the general land office, by the certificate of the county clerk of the county in which the land is situated, that there is no title to said survey on record in said county, and by the affidavits of two credible citizens of said county that the said land is not occupied by the owner nor by some person holding for him.

When surveys void.
(Acts of 1885, p. 50.)

Art. 4153. [3917] If any district or county surveyor shall fail, neglect or refuse, when the amount of lawful surveying fees of any location of land may be tendered to him by any person legally entitled to the survey, to make or cause the survey of the same to be made within one month of the time of the tender to him of said surveying fees, he and his sureties shall be liable on his official bond to the party or parties legally entitled to the same, in the amount of damages or injury said party or parties may sustain by reason of such neglect, refusal or failure, to be recovered before any competent tribunal.

Liability for failing to survey.
Ib.
P. D. 4569.

Art. 4154. [3918] If, upon examination of the field notes of a survey in the general land office, they are found to be incorrect, it shall be the duty of the commissioners to cause a plain statement of the errors, with a sketch of the map, to be forwarded by mail or by the party interested, to the surveyor who made the survey, with a requisition to correct the same and return corrected field-notes to the general land office.

Field-notes to be sent back for correction, when.
(Act Oct. 24, 1871, p. 11.)
P. D. 7091.

Art. 4155. [3919] It is hereby made the duty of surveyors who shall have made and delivered incorrect field-notes, upon the requisition of the commissioner of the general land office, provided for in the preceding article, or of the party interested, to make corrected field-notes and return the same to the general land office without delay and without any additional compensation.

The same corrected and returned, how.
Ib.
P. D. 7092.

Art. 4156. [3920] When a conflict of surveys does not exist on the ground, but appears only on the maps or in the field-notes, it shall only be required of the surveyor to make an official certificate of the facts and furnish a true sketch of the survey with its connections.

Correction by certificate, when made.
Ib.

[Note.—Article 4157 (3921) omitted as repealed by the report of the joint committee on amendments to the Revised Civil Code; No. 64, Sen. Jour., p. 482.]

Art. 4158. [3922] In all cases where field-notes shall be withdrawn from the general land office the same shall be returned thereto within twelve months from the date of withdrawal, or such survey or surveys shall be null and void.

Field-notes withdrawn to be returned, when.
(Act Nov. 29, 1871, p. 45, §3.)
P. D. 7098.

Art. 4159. [3923] An entry or location made by virtue of a genuine land certificate upon any vacant and unappropriated land which lies partly in one and partly in another land district or county shall be surveyed by the surveyor of the district or county in which the entry or location was made; and the field-notes thereof shall be recorded in both districts or counties before they are returned to the general land office.

Locations on the line and within two districts may be surveyed by either.

Art. 4159a. Whenever the commissioner of the general land office shall find by inspection of the whole body of the application that it was made for the purpose of having a survey made of a portion

To relieve actual occupants.
(Acts 1895, p. 149.)

of the unappropriated public domain for the homestead of the applicant, under "An act for the benefit of actual occupants of the public lands," approved May 26, 1873, and acts amendatory thereof, and upon which application the surveyor did make the survey as required by law, even though his field-notes were not returned to the land office within twelve months, and shall also find that the proof of occupancy as required by law is fully and properly made, from all of which it shall be manifestly clear to the commissioner that the applicant had in good faith endeavored to comply with the law hereinbefore recited, but was misled through the omission or ignorance of the officers charged by law to perform their duties in the premises, he shall issue and sign the patent, notwithstanding the application may not have been sworn to, or not signed if sworn to, or shall not have the seal of the officer before whom the affidavit was made attached thereto, and notwithstanding the application may contain a recital of articles 3926 and 3927 of the Revised Civil Statutes of Texas, "An act for the relief of actual occupants of the public lands," approved April 24, 1879, when it shall be manifest from all the papers on file in the land office that such recital was erroneously made.

[Note.—The articles referred to in this article, being parts of the act of May 26, 1873, do not appear to have been codified by the commission of 1893, nor to have been considered by the legislature in revising same.]

Law not to
apply, when.
Ib.

Art. 4159b. That nothing in this law shall be construed to allow any applicant to obtain a patent in any case where subsequent settlers have, by reason of any of the failures or delays recited in this law, themselves settled upon any of such lands in good faith as a home, nor thus defeat such subsequent applicant.

Land purchase money
refunded,
when.
Ib. p. 162.

Art. 4159c. Upon proper proof being made to the comptroller that money has been in good faith paid into the state treasury upon lands for taxes, lease and purchase money, for which, on account of conflicts, erroneous surveys, or illegal sales, patents can not legally issue, or upon lands which patents have issued and have been or may hereafter be legally cancelled, the comptroller is hereby authorized to issue his warrant for the amount so paid into the treasury in favor of the parties who have in good faith paid such money for which they receive no consideration; provided, that this article shall not apply to surveys the errors in which may be corrected; and provided further, that whenever the official records of the general land office shall show that patents for such lands can not legally issue upon such surveys, on account of conflicts, erroneous or illegal sales, or that patents issued on such lands have been legally cancelled, it shall be the duty of the commissioner to issue his certificate to that effect, which certificate filed with the comptroller shall be sufficient proof to authorize him to act under the provisions hereof.

CHAPTER EIGHT.

HOMESTEAD DONATIONS.

| Article | Article |
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| Who is entitled to one hundred and sixty acres4160 | Proof shall be by affidavit, etc.....4168 |
| Who is entitled to eighty acres.....4161 | Patents shall issue to the heirs, when...4169 |
| Shall present application in writing.....4162 | No assignment valid, unless by deed, etc.4170 |
| Shall be sworn to, filed and recorded....4163 | Shall forfeit right and title, when.....4171 |
| Shall be surveyed in twelve months.....4164 | Land certificate may be applied, etc.....4172 |
| Preference right to survey and patent....4165 | Temporary abandonment not computed, when4173 |
| Field-notes to be returned to general land office in twelve months.....4166 | Homestead donations on titled lands prohibited4174 |
| Entitled to patent after three years' residence4167 | |

Article 4160. [3937] Every person who is the head of a family and without a homestead shall be entitled to receive a donation from the state of Texas of one hundred and sixty acres of vacant and unappropriated public land, upon the conditions and under the stipulations hereinafter provided.

Art. 4161. [3938] Every single man of the age of eighteen years or upward shall be entitled to receive a donation from the state of Texas of eighty acres of vacant and unappropriated public land, upon the conditions and under the stipulations hereinafter provided.

Art. 4162. [3939] Any person desiring to acquire any portion of the public domain as a homestead donation, and who is entitled to apply for the same under the provisions of this chapter, shall present to the surveyor of the district or county in which the land is situated his application in writing, designating the land which he claims, and stating that he claims the same for himself, in good faith, under the laws granting homestead donations; that he is without any homestead of his own, and that he has actually settled upon the land which he claims, and that he believes the same to be vacant and unappropriated public domain.

Art. 4163. [3940] Said application shall be made at the time of settlement or occupancy of the land, or within thirty days thereafter, and shall be sworn to before some officer authorized to administer oaths, and shall be filed with the said surveyor and recorded by him in a well-bound book kept for recording pre-emption and homestead applications; and the said surveyor shall give a receipt therefor, if desired.

[Note.—Article 4164 (3941) omitted as repealed by the report of the joint committee on amendments to the Revised Civil Code; No. 65, Sen. Jour., 1895, p. 482.]

Art. 4165. [3942] Any applicant for a homestead donation, after having settled upon the public land he claims, and having made his application in writing for a survey, as required by the provisions of this chapter, and continuing his said occupation, shall have a preference right over all subsequent locations or settlements to have the same surveyed, for a period of twelve months from the date of his application, and to secure a patent for the same under the provisions of this chapter.

Art. 4166. [3943] The field-notes of every survey made under the provisions of this chapter, after being duly certified, mapped and recorded, shall be returned to and filed in the general land office within twelve months after the date of the survey aforesaid.

Who is entitled to 160 acres.
(Const., art. 14, §6.)

Who is entitled to 80 acres.
Ib.

Shall present application in writing.

Shall be sworn to, filed and recorded.

Preference right to survey and patent.
(Act Aug. 19, 1876, p. 197.)

Field-notes to be returned to general land office in twelve months.
(Act May 26, 1873, p. 197.)

Entitled to patent after three years' residence.

Art. 4167. [3944] Whenever the field-notes of a homestead donation survey shall have been returned to the general land office according to the provisions of the preceding article, and when proof shall be made to the satisfaction of the commissioner of the general land office that the original applicant for a homestead donation has by himself, or in case the claim has been transferred, that he and his assignee have together in good faith resided upon, occupied and improved the land so claimed by him for a period of three consecutive years from the date of the application, it shall be the duty of said commissioner to issue a patent therefor to the original applicant or his assignee, as the case may be, upon payment of all the office and patent fees.

Proof shall be by affidavit, etc. (Act Aug. 19, 1876, p. 197.)

Art. 4168. [3945] The proof required in the preceding article shall be by an affidavit of the claimant to the effect that such original applicant has by himself, or in case the claim has been transferred, that he and his assignee have together in good faith resided upon, occupied and improved said land for three consecutive years from the date of his application for a homestead donation; which affidavit shall be corroborated by the affidavit of two disinterested and credible citizens of the county or surveyor's district in which the land is situated, which affidavits shall be subscribed and sworn to before some officer authorized to administer oaths, who shall certify to the same and to the credibility of said witnesses under his hand and seal of his office.

Patents shall issue to the heirs, when. (Act March 24, 1871, p. 16.) P. D. 7053.

Art. 4169. [3946] When the original occupant or his assignee is dead, the patent shall issue to his heirs on application of the surviving widow, one of the heirs or his legal representative.

No assignment valid unless by deed, etc. Id. P. D. 7053.

Art. 4170. [3947] No assignment of the homestead donation right by the occupant or settler before the patent has been obtained shall be good and valid in law, unless the same be by deed duly authenticated as required by law.

Shall forfeit right and title, when.

Art. 4171. [3948] Should any person claiming a homestead donation fail to make the written application as provided in this chapter, or should he fail to have the survey made and to have the field-notes thereof (duly certified to and recorded) returned to and filed in the general land office within twelve months after the date of his application, or should he or his assignor fail to make satisfactory proof that he had resided upon, occupied and improved the land claimed by him for three years after the date of his application, as provided in this chapter, he shall in either event forfeit all right and title to said land, and the same shall become subject to entry or location as other vacant and unappropriated public land.

Land certificate may be applied, etc., at any time.

Art. 4172. [3949] Any person who shall have filed his application for a homestead donation, according to the provisions of this chapter, or the vendee of such person, shall have the right and privilege at any time to locate upon his said claim or survey any genuine and unsatisfied land certificate, which shall have been duly transferred to him; and after returning the said certificate to and filing it in the general land office, he shall be entitled to receive a patent for the land in the same manner as if the certificate had been originally located upon it; provided, that the field-notes of the survey shall have been returned to the general land office within twelve months, as hereinbefore provided, and the homestead donation claim has not been forfeited under the preceding article.

Art. 4173. [3950] If any person shall be driven from the land claimed or occupied by him as a homestead donation by hostile Indians or other public enemies, or having reasonable grounds to fear violence from such Indians or enemies to himself or family, shall temporarily abandon his said land and shall return to and occupy the same as soon as it shall appear reasonably safe for him to do so, he shall not forfeit or lose any right by reason thereof, and proof of the same may be made by the affidavit of the party and the certificate of the county or district surveyor.

Temporary abandonment, when not commuted. (Act March 13, 1875, p. 197.)

Art. 4174. [3951] No person shall settle upon or occupy, nor shall any survey be made or patented under the provisions of this chapter upon any land titled or equitably owned under color of title from the sovereignty of the state, evidence of the appropriation of which is on the county records or in the general land office, or when the appropriation is evidenced by the occupation of the owner or of some person holding for him.

Homestead donations on titled lands prohibited. (Const., art. 4, §2.)

CHAPTER NINE.

PATENTS.

| Article | Article |
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| When patent to be issued.....4176 | Certificates not presented to court of claims may be patented.....4188 |
| When to be referred to the attorney-general.....4177 | Patent may be cancelled, in whole or in part, where issued by mistake.....4189 |
| Map of county to be filed.....4178 | When partial conflict, may be cancelled.....4190 |
| Patents on surveys in two counties....4179 | Commissioners required to deliver patents, when.....4191 |
| Patents on more than two surveys, when.....4180 | Refunding fee where patent cannot issue.....4192 |
| In case of conflict, how patent may issue.....4181 | When patent may be delivered to an agent.....4193 |
| Shall issue patent to assignee.....4182 | Commissioners required to issue patents on certificates not reported by clerk, when.....4194 |
| Before issuing to assignee transfers, etc., must be filed.....4183 | Penalty for failure to pay fees on patents.....4195 |
| Patent to assignee without transfers, etc., when.....4184 | State shall have lien to secure fees, etc.....4196 |
| Patents to deceased persons shall inure to, whom.....4185 | |
| In what order patents shall issue.....4186 | |

Article 4175. [3952] Every patent for land emanating from the state shall be issued in the name and by the authority of the state, under the seal of the state, and under the seal of the general land office, and shall be signed by the governor and countersigned by the commissioner of the general land office; and before the delivery thereof to the party entitled thereto it shall be registered in a well-bound book kept in the general land office for the recording of patents.

Requisites of patent. (Act May 12, 1846.) P. D. 4279, 4281.

Art. 4176. [3953] Whenever the field-notes of a survey and the land certificate by virtue of which the same was made have been returned to and filed in the general land office within the time prescribed by law, if it shall appear after due examination that such survey was correctly and legally made upon vacant and unappropriated land, and that the land certificate is genuine and unsatisfied, it shall be the duty of the commissioner of the general land office to make out and deliver to the rightful owner thereof, his agent or legal representative, a patent for the land described in said survey.

When patent to be issued. (Act Jan. 20, 1840.) P. D. 4286.

Art. 4177. [3954] Should it appear to the commissioner of the general land office, from the records of his office or from information on oath given him, that there is some illegality in the claim, he shall, if he deems it necessary, refer the matter to the attorney general,

When to be referred to attorney-general.

whose decision in writing shall be sufficient authority for him to issue or withhold the patent as the case may be.

Art. 4178. [3955] No patent shall be issued upon any claim, unless a map of the county in which the same is situated shall be on file in the general land office.

Map of county to be filed.
(Act Jan. 19, 1841.)

P. D. 4305.
(Acts of 1879, ch. 121, p. 129.)

Patents on surveys in two counties.
(Act May 9, 1846.)

P. D. 4315.

Art. 4179. [3956] The commissioner of the general land office is hereby authorized and required to issue patents in all cases upon surveys of land lying in two or more counties or districts, where no conflict between such surveys and others exist, and to which there is no other objection than that of a division in said surveys, occasioned by a county or district boundary passing through them; provided, the field-notes shall have been recorded in the office of the county or district surveyor of both counties or districts.

Patents on more than two surveys, when.
(Act April 7, 1846.)

P. D. 4314.

In case of conflict, how patent may issue.
(Act May 9, 1846.)

P. D. 4316.

Art. 4180. [3957] The commissioner of the general land office is hereby authorized and required to issue patents to the legal owner of a land certificate in all cases where the same has been located in two surveys, and where the same is bounded by other surveys.

Art. 4181. [3958] In cases where conflicts exist between surveys, the commissioner of the general land office shall be authorized and is hereby required to issue patents to such portions of such surveys as are free from conflicts, and also to issue a certificate for the residue in each case.

Shall issue patent to assignee, when.
(Act May 12, 1846.)

P. D. 4294.

Art. 4182. [3959] The commissioner of the general land office is hereby required to issue patents to, and in the name of, the assignee of any genuine land certificate issued in conformity to law.

Before issuing to assignee transfers, etc., must be filed.
Ib.

Art. 4183. Before any patent shall issue to the assignee under the preceding article, he must present and file a sufficient and properly authenticated chain of transfer, assignment or obligation for title, or a power of attorney showing a transfer from the original grantee to the assignee.

Patent may issue to assignee without transfer, when.
(Act Feb. 3, 1845.)

P. D. 4292.

Art. 4184. [3960] All patents may issue in the name of the assignee when the certificate was granted in the name of the assignee, without an exhibition of a chain of transfers as prescribed in the preceding article.

Patents to deceased persons shall inure to whom.
(Act Dec. 24, 1851.)

P. D. 4228a.

Art. 4185. [3961] All patents which have heretofore been issued by the authorities of the republic of the state of Texas, in the names of persons deceased at the time of issuing such patents, and all patents for lands which may be issued hereafter by authority of the state of Texas, in the names of persons deceased at the time at which said patents may be issued, shall be, to all intents and purposes, as valid and effectual to convey and secure to the heirs or assignee, as the case may be, of such deceased persons, the land so patented, or which may be so patented, as though such deceased persons had been in being at the time such patents bear date.

In what order patents shall issue.
(Act April 8, 1861.)

P. D. 4300.

(Acts of 1879, extra session, ch. 27.)

Art. 4186. [3962] The commissioner of the general land office is authorized and required to patent surveys in the order in which they may be made ready for patenting, without regard to the order of filing in the general land office or the order of application; provided, that when application is made for patent on any claim, and the office fees therefor have been paid, such claim shall have preference over claims for which no application has been made; provided, such surveys shall have been regularly mapped, or there be sufficient evi-

dence that no previous survey has been legally filed in the land office covering the same ground as represented on the maps of the office.

Art. 4187. [3963] The commissioner of the general land office is hereby prohibited from issuing a patent upon any survey that shall have been made by authority of a certificate issued prior to March 16, 1840, and has not been returned as genuine and legal by the commissioners appointed by the act of January 29, 1840, or by authority of a warrant issued for military services, unless the same shall have been presented to and approved by the secretary of war, the adjutant general or the commissioner of the court of claims, as heretofore prescribed by law, or unless said certificate or warrant shall have been issued by authority of a special act of the legislature; and any patent issued contrary to the provisions of this article shall be null and void, unless the person claiming such patent shall produce to the commissioner of the general land office the judgment or decree of a district court of the republic or state of Texas, from which no appeal was taken within the time prescribed by law, that he is justly entitled to the amount of land under the constitution and laws.

Patents on non-recommended certificates prohibited. (Act Jan. 29, 1840.) P. D. 4288. (Acts of 1879, ch. 121, p. 129.)

[Note.—Article 4188 (3964) omitted as repealed by the report of the joint committee on amendments to the Revised Civil Code; No. 67, Sen. Jour., 1895, p. 482.]

Art. 4189. [3965] Where a patent to land has been or may hereafter through mistake be issued upon any valid claim for land which is afterward found to be in conflict with any older title, it shall be competent for the owner of such patent, or any part of the land embraced therein, and within such conflict, to return the same to the commissioner of the general land office for cancellation, or in case the owner of such land in conflict can not obtain the patent, then he shall return instead thereof legal evidence of his title to such patent or part thereof, and in either case he shall make and file with the said commissioner an affidavit in writing that he is still the owner of the same, and has not sold or transferred it; and should it appear from the records of the general land office, or from a duly certified copy of a judgment of any court of competent jurisdiction before which the title to such land may have been adjudicated, that such conflict really exists, it shall be lawful for him to cancel the patent or such part thereof as shall appear to belong to the party so applying, and deliver a new certificate or other evidence of claim upon which it is issued to the owner for relocation.

Patent may be cancelled in whole or in part, where issued by mistake. (Act March 10, 1885, p. 76.)

Art. 4190. [3966] In cases where there is only a partial conflict the commissioner of the general land office may, under like circumstances and in like manner as is provided for in the preceding article, cancel any patent presented to him, and issue a patent to the applicant for such portion of the land covered by his patent as may not be in conflict with the older title, where from the field-notes the same may be done, and also issue to such applicant a certificate for the unlocated balance.

When in partial conflict, may be cancelled. (Act Feb. 3, 1874.) P. D. 4302.

Art. 4191. The commissioner of the general land office is hereby authorized and required to issue and deliver all patents now or hereafter ready for delivery to the person entitled to receive the same, when it appears from the books of said office that the legal fee for said patent has been at any time heretofore deposited in said office and not withdrawn.

Commissioner required to deliver patent, when. (Acts of 1891, p. 182.)

Refunding of
fee when
patent can
not issue.
(Acts of 1883,
p. 113.)

When patent
may be deliv-
ered to agent.

Commis-
sioner re-
quired to is-
sue patents on
certificates
not reported
by clerks,
when.
(Acts of 1883,
p. 82.)

Penalty for
failure to pay
fees on
patents.
(Acts of 1879,
p. 62.)

Venue, etc.

State shall
have a lien to
secure the
fees.
Ib.

Art. 4192. Upon proper proof being made to the comptroller that deposits have been made in any special funds of moneys, for which deposits and payments no patents for lands can be issued for which such payment may have been or may hereafter be made, the comptroller is authorized to issue his warrant in favor of such parties for such amount as may be found to be due; provided, this article shall not apply to surveys the errors in which may be corrected.

Art. 4193. [3967] No patent shall be delivered in any case to an agent or legal representative until he shall have filed written authority from the owner.

Art. 4194. The commissioner of the general land office is authorized and required to issue patents to lands that have been surveyed and returned to the general land office and have been suspended because the clerks of the county courts have failed to make reports as required by law, when said commissioner is satisfied from evidence in his office that such patents should issue.

Art. 4195. If any patents remain in the land office six months after the owners are notified of the issuance, and to pay the dues on the same, it shall be the duty of the commissioner to add to the amount of said fees a penalty of ten per cent per month for the whole time the fees may remain unpaid, and to collect said penalty and fees from the persons or corporations to whom said patents have been granted, and said commissioner shall have no authority to deliver any patent for land or certified copy of field-notes or certificate thereof until the whole amount of said fees and penalty shall have been paid, and it is made the duty of the attorney-general to bring suit for the same in the district court of Travis county.

Art. 4196. The state of Texas has and shall hereafter have a lien upon all the land conveyed by or included in all patents to land granted by the state for the amount of fees and penalties provided for in the preceding article, and said land shall be subject to be sold in satisfaction of the same.

CHAPTER TEN.

LAND RESERVATIONS.

| Article | Article |
|--|---------------------------------------|
| What severed from public domain.....4198 | Reservation surrendered, how.....4199 |

[Note.—Articles 4197 and 4198. By the report of the joint committee on amendments to the Revised Civil Code (No. 68, Sen. Jour., 1895, p. 482) Article 4197 is renumbered 4198 and amended to include the words “under chapter 8, Title LXXXVII., Revised Civil Statutes,” and the Article which follows and numbered by the codifiers of 1892 as 4198 (3969) is omitted as repealed.]

Severed from
public do-
main.
(Acts of 1885,
p. 104; amend.
1895, No. 68,
Sen. Jour. p.
482.)

Article 4198. All reservations of the public domain for the benefit of any railroad or railroad company heretofore made by law, and the right to which reservation has lapsed since January 1, 1872, or may hereafter lapse, are hereby declared then to have been severed from the mass of the public domain; and, in event of forfeiture to the state, are expressly reserved from location except by actual settlers under chapter 8, title LXXXVII, Revised Civil Statutes.

Reservation
surrendered,
how.
(Acts of 1879,
p. 175.)

Art. 4199. Any railroad company in whose favor a reservation from the public domain may heretofore have been created by any law, general or special, may surrender its exclusive right to further locate lands within said reservation; and whenever any such rail-

road company shall file in the office of the secretary of state an instrument in writing, approved as to form by the attorney-general, relinquishing or surrendering its claim to such reservation, said relinquishment shall, upon the payment of all costs of suit, if one has been instituted, be accepted by the state, instead of a judicial forfeiture of the reservation, and shall be deemed a satisfaction of said suit; and it is especially provided that the lands so relinquished shall be subject to location only under the provisions of law embraced in this chapter. The surrender is not to affect the right of the company to construct its road in accordance with its charter, nor its relation to the laws regulating railroads and granting land subsidies to aid in their construction. Any action taken by any railroad company under the provisions of this chapter is to be held to be a complete acceptance of all the provisions of the constitution applicable to railroads, and of the laws of the state regulating railroads.

CHAPTER ELEVEN.

SALE OF VACANT AND UNAPPROPRIATED LANDS.

| Article | Article |
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| Certain land withdrawn from sale.....4200 | Surveyor's fees4204 |
| Manner of purchasing public domain in less than six hundred and forty acres..4201 | Patent to issue, when.....4205 |
| Application, how made.....4202 | Forfeiture, etc.4206 |
| Land to be surveyed.....4203 | Reservations not to be disturbed.....4207 |

Article 4200. All the public lands heretofore authorized to be sold under the act entitled "An act to provide for the sale of the unappropriated public land of the state of Texas, and the investment of the proceeds of such sale," approved July 14, 1879, are withdrawn from sale; provided, that nothing contained in this article shall be construed to return the land reserved by an act entitled "An act to provide for the sale of a portion of the unappropriated public lands of the state of Texas, and the investment of the proceeds of such sale," approved July 14, 1879, and the act amendatory of such act, approved March 11, 1881, to the mass of the public domain, but the same shall be construed to be reserved for the purposes for which said land was originally set apart and designated by said act until the legislature shall otherwise provide.

Subject to location, how.
Effect of surrender.
Certain land withdrawn from sale.
(Acts of 1883, p. 2.)

Art. 4201. Any person desiring to purchase any of such appropriated public lands situated in organized counties of the state of Texas as contain not more than six hundred and forty acres, appropriated by an act to provide for the investment of the proceeds of such sale, approved July 14, 1879, may do so by causing the tract or tracts which such person may desire to purchase to be surveyed by the authorized public surveyor of the county in which such land is situated. The provisions of this article shall not be so construed as to prohibit the right of acquiring any of said lands under the homestead donation law, within the bounds of the reservation here made; but any person shall have the same right of acquiring a homestead within this reservation, under the homestead donation laws of this state, as he may have had prior to April, 1889; provided, where it is ascertained that any of such lands as contain not more than six hundred and forty acres are situated within the inclosed lands of any actual bona fide settler and resident of the state, such settler shall

Manner of purchasing public domain in amounts less than 640 acres.
(Acts of 1889, p. 48.)

have the preference right for six months from the time that the same shall have been declared by the commissioner of the general land office to be vacant and subject to sale, to purchase as much of said land as may be embraced within his inclosure; provided, that said preference right shall not be given to any person who has inclosed any vacant land knowing the same to be vacant at the time of inclosing same.

Application,
how made.
(Acts of 1887,
p. 61, §2.)

Art. 4202. The person desiring to purchase any of said lands shall make application therefor in writing, describing the lands by reference to the surrounding surveys.

Lands to be
surveyed.
Ib. §3.

Art. 4203. It shall be the duty of the surveyor to survey the lands designated in said application within three months from the date thereof, and within sixty days after said survey to certify to, record and map the field-notes of said survey; and he shall also within the said sixty days return to and file the same in the general land office, together with the applications for the purchase thereof, as required by law in other cases.

Surveyor's
fees.
Ib. §4.

Art. 4204. Surveyors shall be entitled to receive from applicants for the purchase of lands under the authority of this chapter all legal surveyors' fees for work done by them.

Patent to
issue, when.
Ib. §5.

Art. 4205. Within ninety days after the return to and filing in the general land office of the surveyor's certificate, map and field-notes of the land desired to be purchased, it shall be the right of the person who has had the same surveyed to pay or cause to be paid into the treasury of the state of Texas the purchase money therefor at two dollars per acre; and upon the presentation to the commissioner of the general land office of the receipt of the state treasurer for such purchase money, said commissioner shall issue to said person a patent for the tract or tracts of land so surveyed and paid for.

Failure to pay
to work for-
feiture.
Ib. §6.

Art. 4206. Should any applicant for the purchase of public land fail, refuse or neglect to pay for the same within the time prescribed in article 4205 he shall forfeit all rights thereto, and shall not thereafter be allowed to purchase the same, but such land so surveyed may be sold as if no survey had been made.

Reservations
not to be
disturbed.
Ib. §7.

Art. 4207. Nothing in this title shall be so construed as to operate as a repeal of the reservations and donations of the lands referred to in this title to the free school and public debt funds made by former laws, but such reservations and donations shall be preserved intact, and the proceeds arising from the sale of the same under the provisions of this chapter shall go one-half to the permanent free school fund and the other half to the public debt.

CHAPTER TWELVE.

GENERAL PROVISIONS.

| | Article |
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| Certificates not to be located on titled lands | 4208 |
| No officer to be interested in public lands, etc. | 4211 |
| Abstract to be corrected if necessary..... | 4215 |

| | Article |
|---|---------|
| Supplemental abstracts furnished, when..... | 4216 |
| Abstracts to be printed, etc..... | 4217 |
| Printing of, how paid for..... | 4218 |
| Certain locations validated..... | 4218a |

Certificates
shall not be
located, etc.,
on titled land.
(Const., art.
14, §2.)

Article 4208. [3977] All genuine land certificates heretofore or hereafter issued shall be located, surveyed or patented only upon vacant and unappropriated public domain, and not upon any land titled or equitably owned under color of title from the sovereignty

of the state, evidence of the appropriation of which is on the county records or in the general land office, or when the appropriation is evidenced by the occupation of the owner, or of some person holding for him.

[Note.—Articles 4209 (3978) and 4210 (3981) omitted as repealed by the report of the joint committee on amendments to the Revised Civil Code; No. 70, Sen. Jour., 1895, p. 482.]

Art. 4211. [3982] No person elected or appointed to any position of trust in the general land office, or employed in such land office, shall directly or indirectly be concerned in the purchase of any right, title or interest in any public land, either in his own name, right or interest for any other person, or in the name or right of any other person, in trust for himself; nor shall take nor receive any fee or emolument for negotiating or transacting the business of said office, other than those fees allowed by law.

No officer shall be interested in public land, etc. (Act Dec. 14, 1837.) P. D. 4090.

[Note.—Articles 4212 (3983), 4213 (3984) and 4214 (3985) omitted as repealed by the report of the joint committee on amendments to the Revised Civil Code; No. 70, Sen. Jour., 1895, p. 482.]

Art. 4215. [3986] The commissioner of the general land office shall make it the special duty of one of his clerks to constantly correct said abstract according to errors discovered, changes by cancellation of patents, changes of county lines and creation of new counties, and to add all new patented surveys at the date of the patent.

Abstract to be corrected when necessary. Ib. §4

Art. 4216. [3987] During the month of August of each year hereafter the commissioner of the general land office shall have made out and furnished to the comptroller of public accounts a supplementary abstract of all patents that have been issued from his office during the year ending on the thirty-first day of August, to include all locations filed during the year not patented.

Supplemental abstract furnished, when. Ib. §5.

Art. 4217. [3988] The comptroller of public accounts is hereby authorized to have one thousand copies of said supplementary abstracts printed and bound for distribution among those officers of the state and counties whose duties require the use of said abstract, the surplus copies to be sold at a reasonable price to parties applying for them; provided, that if the demand for copies of said abstract shall be greater than the supply provided for by this article, an additional number of five hundred copies may be printed.

Abstract to be printed, etc. Ib. §6.

Art. 4218. [3989] The sum necessary to pay for the printing and binding of said abstract shall be paid out of the general appropriation made by the legislature for printing, and all moneys received by the comptroller by the sale of said abstract shall be paid into the treasury to the credit of said appropriation.

Printing of, how paid for, etc. Ib. §7.

Art. 4218a. The titles to all lands located by virtue of certificates issued to railroad companies in whole or in part for sidings, switches or turnouts, and which lands were transferred by any of said companies or their duly appointed receivers or assigns prior to the first day of January, A. D. 1891, to purchasers in actual good faith for value, and are now owned by such purchasers, their heirs or assigns, be and the same are hereby validated to such purchasers, their heirs or assigns, and also to all actual settlers on such lands so far as the state may have any claim, and that the titles to all public free school, university or asylum lands located by virtue of such certificates are also validated, whether the locations were voidable or not by reason of their having been made by the wrong surveyor; pro-

Certain locations validated. (Act of 1895, p. 36.)

vided, that this article shall not apply to lands for the recovery of which suit as has already been instituted by the state, nor be construed to validate locations made on lands that were at the time appropriated or reserved from such locations, nor shall it be construed to in any manner apply to or affect the rights of third parties heretofore acquired in good faith; provided, further, this article shall not apply or be held to validate titles in the following other cases: (1) Where said lands were transferred through foreclosure proceedings against such companies to trustees or mortgagees or other persons or corporations interested in mortgages on said lands, or who held said lands for such interested persons or corporations, and where the apparent title to said lands was still in said companies or their receivers or their transferees at such foreclosure sale on January 1, 1891, and have not been subsequently transferred to actual settlers on such land or to bona fide purchasers thereof for value and without notice. (2) Where said lands have been transferred by said companies in evasion and fraud of the laws of alienation applicable thereto and the title is now in the name of the original vendees of said companies.

CHAPTER TWELVE A.

SALE AND LEASE OF PUBLIC FREE SCHOOL, ASYLUM AND PUBLIC LANDS.

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Sale and lease of public lands provided for. (Acts 1895, p. 63.)

Duties of commissioner of the general land office. *Ib.*

Article 4218b. All lands heretofore or hereafter surveyed and set apart for the benefit of the public free schools, the lunatic asylum, the blind asylum, the deaf and dumb asylum, and the orphan asylum shall be sold and leased under the provisions of this chapter.

Art. 4218c. The commissioner of the general land office is hereby vested with all the power and authority necessary to carry into effect the provisions of this chapter, and shall have full charge and discretion of all matters pertaining to the sale and lease of said lands, and their protection from free use and occupancy and from unlawful enclosure, with such exceptions and under such restrictions as may be imposed by the provisions of this chapter, or by the constitution of the state. He shall, as soon as practicable, adopt such regulations not inconsistent with the constitution or this chapter as may be deemed necessary for carrying into effect the provisions of this chapter, and may from time to time alter or amend such regulations so as to protect the public interest; but all regulations shall be submitted to the governor for his approval before adoption or promulgation. He shall adopt all necessary forms of applications for sales or leases and all other forms necessary or proper for the transaction of the business imposed upon him by this chapter, and may from time to

time call upon the attorney general to prepare such forms; and it shall be the duty of that officer to furnish the commissioner of the general land office with such advice and legal assistance as may be requisite for the due execution of the provisions of this chapter; and it shall be the duty of such commissioner to call upon the attorney general for advice whenever there is any doubt as to the meaning of this chapter or any provisions thereof.

Art. 4218d. The commissioner of the general land office shall from time to time, as the public interest may require, cause any or all of the lands belonging to the several funds mentioned in this chapter to be carefully and skillfully classified and valued that have not heretofore been classified, and for this purpose he may appoint, with the approval of the governor, such number of competent agents, who shall be citizens of the county or district where such land is situated, as may be necessary, or may determine and declare the classification and valuation without the aid of such agents, and upon such facts as may be satisfactory to the commissioner. Such agents shall receive for their work a reasonable compensation, to be fixed by the commissioner of the general land office, and not to exceed the sum of three dollars per section; and no such expense shall be incurred in the absence of an appropriation by law to cover such expenditure, and the state shall not be liable for any expenditure of this character incurred in excess of current appropriations.

Lands to be
classified and
valued.
Ib.

Art. 4218e. It shall be the duty of such agents as may be appointed under the provisions of this chapter, under such restrictions and instructions as may be prescribed by the commissioner of the general land office, to classify such lands belonging to the several funds mentioned in this chapter as the commissioner may direct, into agricultural, pasture, and timber lands, and for this purpose they shall carefully examine the same, and after such examination they shall prepare an accurate plat of each section, showing the relative proportions of timber and open land on such section, and their situation; also, the quality of the soil, the topography of the land, and the quality and kind of timber, and the streams and other sources of water supply, and their location, and such other facts as may be important; and from time to time, as may be prescribed by the commissioner of the general land office, such agent shall prepare and forward to the commissioner, with such plats, a tabulated statement of such lands so examined by him, with the value of each section, and such plats and reports when approved by the commissioner, shall be filed in the general land office as a part of the records of said office; but nothing in this chapter shall be construed to require or authorize a classification of lands already classified under former laws; provided, that any section or part of any section heretofore classified as timbered land which is not pine land nor valuable chiefly for the timber thereon may be classified under the provisions of this chapter as agricultural lands.

Duties of
classifying
agents.
Ib.

Art. 4218f. When any portion of said land has been classified to the satisfaction of the commissioner under the provisions of this chapter or former laws, such lands shall be subject to sale, but to actual settlers only, and in quantities of not less than forty acres, and in multiples thereof, nor more than one section containing six hundred and forty acres more or less; provided, that when there is a fraction less than forty acres of any section left such fraction may be sold; but lands classified as purely pasture lands may be sold in quantities not to exceed four sections to the same settler.

Classified
lands subject
to sale to
actual settlers.
Ib.

Commis-
sioner of land
office to notify
county clerks.
Ib.

Art. 4218g. It shall be the duty of the commissioner of the general land office to notify in writing the county clerk of each county of the valuation fixed upon each section of land in his county, and in each county attached to it for judicial purposes, which he offers for sale, which notification shall be kept by the clerk in his office and recorded in a well bound book, which shall be open to public inspection.

Price of
public free
school and
asylum lands.
Ib.

Art. 4218h. All lands belonging to the public free schools and the several asylum funds shall be sold at no less than two dollars per acre, except pasture lands, which shall be sold at not less than one dollar per acre, and all timber lands shall be sold at not less than five dollars per acre. By timber lands as here used is meant lands valuable chiefly for the timber thereon.

Prior right
reserved to
existing ac-
tual settler.
Ib.

Art. 4218i. Any bona fide actual settler who may reside on any part of the lands the sale of which is authorized by this chapter at the time this chapter may go into effect, shall have the prior right for a period of ninety days after this chapter goes into effect, or after said land shall have been placed upon the market, to purchase such quantity of land as may be limited by this chapter, to include his improvements, upon complying with the provisions of this chapter regulating sales as in other cases, and such land shall be appraised without reference to the improvements thereon. Any bona fide settler who has heretofore purchased or who may hereafter purchase not exceeding one section of agricultural land, shall have the right to purchase three strictly pastoral sections, upon his making oath that he is not acting in collusion with others for the purpose of buying for any other person or corporation, and that no other person or corporation is directly or indirectly interested in the purchase of the same.

Commis-
sioner to
make all
sales; condi-
tions of same;
status of
vendee of
original pur-
chaser; sales
after for-
feiture; pay-
ments, etc.
Ib.

Art. 4218j. All sales shall be made by the commissioner of the general land office, or under his direction, and he shall prescribe suitable regulations whereby all purchasers shall be required to reside upon as a home the land purchased by them for three consecutive years next succeeding the date of their purchase, except when otherwise provided. Such regulations shall require the purchaser to reside upon the land for three consecutive years herein mentioned, and to make proper proof of such residence and occupancy to the commissioner of the general land office within two years next after the expiration of said three years, by his affidavit, corroborated by the affidavits of three disinterested and credible persons, to be certified by some officer authorized to administer oaths, and on making such proof the commissioner shall issue to the purchaser, his heirs and assigns, a certificate showing that fact. If, however, any purchaser has sold his purchase, or any part thereof, his vendee shall be permitted to compute the time of the occupancy of his vendor as a part of his own occupancy; and if any person has sold the whole or any part of his purchase under this or any former law, his vendee, or if he refuses to do so, the vendor himself, may make proof of occupancy as provided herein. Any person desiring to purchase land in accordance with the provisions of this chapter shall forward his application to the commissioner, describing the land sought to be purchased, which application shall be accompanied with the affidavit of the applicant, in effect that he desires to purchase the land for a home, and has in good faith settled thereon, except where otherwise provided herein, and he shall also swear that he is not acting in collusion with others for the purpose of buying

the land for any other person or corporation, and that no other person or corporation is interested in the purchase thereof. Any owner of land heretofore purchased, and which land has been or may be forfeited for non-payment of interest, shall have ninety days prior right after this chapter goes into effect, or after the land is again placed upon the market, to purchase said land without the condition of settlement and occupancy, in case it has been occupied for three consecutive years as required by law; but if not, then he shall reside thereon until the occupancy under the first and last purchase shall together amount to said term of three years; provided, that when any forfeiture has been made the commissioner of the general land office shall add to the appraised value of such land the amount of interest due thereon at the time of forfeiture, which shall be paid in cash with the first payment of one-fortieth of the appraised value of the land when purchased under the preference right to purchase given herein. Any original purchaser or his vendee of any of the lands the sale of which is provided for in this chapter, who has improved such land as a home, and who has been forced to temporarily abandon same on account of drouth, and who shall in good faith reoccupy the same, either by themselves or vendees, within six months after this chapter goes into effect, shall not have the forfeiture declared against them under the law providing for the forfeiture of such lands for non-occupancy; provided, that they shall make affidavit, supported by the affidavit of three disinterested witnesses, that they have reoccupied the land as a home in good faith, and that they had abandoned the same since their purchase on account of the drouth and not otherwise; and such absence shall not be deducted from the three years occupancy required by law in making final proof of occupancy; and provided further, that any purchasers or their vendees of such lands who have failed to make proof of occupancy as required by the law regulating such purchases shall have six months after this chapter shall take effect to make such proof of occupancy as required by the provisions of this chapter. The purchaser shall transmit to the treasurer of the state one-fortieth of the aggregate purchase money for the particular tract of land, and send to the commissioner his obligation to the state, duly executed, binding the purchaser to pay to the state on the first day of November of each year thereafter, until the whole purchase money is paid, one-fortieth of the aggregate price, with interest at the rate of three per cent per annum on the whole unpaid purchase money, which interest shall also be payable on the first day of November of each year; and upon receipt of one-fortieth of the purchase money by the treasurer, and the affidavit and obligation aforesaid by the commissioner, the sale shall be deemed and held effective from the date the affidavit and obligation are filed in the general land office; provided, that if the land applied for be timbered land, then the purchaser shall be required to pay the full amount of the purchase money at the time of his purchase.

Art. 4218k. Purchasers shall have the option of paying the purchase money for their lands in full at any time after they have occupied the same for three consecutive years; and when they have made such payment in full, together with the proof that they have occupied the land for three consecutive years, they shall receive patents for the same upon payment of the patent fee prescribed by law. Purchasers may also sell their lands, or a part of the same, in quantities of forty acres or multiples thereof, at any time after the sale is

Optional
payments;
original pur-
chasers may
sell, etc.
Ib.

effected under this chapter, and in such cases the vendee, or any subsequent vendee, or his heirs or legatees, shall file his own obligation with the commissioner of the general land office, together with the duly authenticated conveyance or transfer from the original purchaser and the intermediate vendee's conveyance or transfer, if any there be, duly recorded in the county where the land lies or to which said county may be attached for judicial purposes, together with his affidavit, in case three years residence has not already been had upon said land and proof made of that fact, stating that he desires to purchase the land for a home, and that he has in good faith settled thereon, and that he has not acted in collusion with others for the purpose of buying the land for any other person or corporation, and that no other person or corporation is interested in the purchase, save himself, and thereupon the original obligation shall be surrendered or cancelled or properly credited, as the case may be, and the vendee shall become the purchaser direct from the state, and be subject to all the obligations and penalties prescribed by this chapter, and the original purchaser shall be absolved in whole or in part, as the case may be, from further liability thereon; provided, that whenever a town shall be located and established upon any lands sold under this or any former chapter, the purchaser or his vendee shall be permitted to pay the entire balance of principal and interest due the state upon such land and obtain a patent therefor at any time, but no such payment shall be permitted or patent issued until such purchaser or owner of such land shall file in the general land office a certified plat of such town, made by a surveyor, which shall be accompanied by the affidavit of the owner of such land, corroborated by the affidavit of five disinterested and credible citizens of the county, to the effect that a town, giving its name, has been located and established upon the land, and that there has been erected therein, and is being occupied by bona fide citizens, twenty business and residence houses, or either, or both.

Forfeiture
of purchase
by non-pay-
ment of in-
terest, etc.
Ib.

Art. 4218l. If upon the first day of November of any year the interest due on any obligation remains unpaid, the commissioner of the general land office shall endorse on such obligation "Land Forfeited," and shall cause an entry to that effect to be made on the account kept with the purchaser, and thereupon said land shall thereby be forfeited to the state without the necessity of re-entry or judicial ascertainment, and shall revert to the particular fund to which it originally belonged, and be resold under the provisions of this chapter or any future law; provided, if any purchaser shall die, his heirs or legal representatives shall have one year in which to make payment after the first day of November next after such death, and shall be absolved and exempt from the requirement of settlement and residence thereon. And if any purchaser shall fail to reside upon and improve in good faith the land purchased by him, he shall forfeit said land and all payments made thereon to the state, in the same manner as for non-payment of interest, and such land shall be again for sale as if no such sale and forfeiture had occurred; provided, that all necessary and temporary absence from such land of such purchaser, for the time of not more than six months in any one year, for the purpose of earning money with which to pay for the land, or for the purpose of schooling his children, shall not work a forfeiture of his title; provided, further, that nothing in this article contained shall be construed to inhibit the state from instituting such legal proceedings as may be necessary to enforce such for-

feiture, or to recover the full amount of the interest and such penalties as may be due the state at the time such forfeiture occurred, or to protect any other right to such land, which suits may be instituted by the attorney general or under his direction, in the proper court of the county in which the land lies or of the county to which such county is attached for judicial purposes; provided, this article shall be printed on the back of receipt.

Art. 4218m. In all cases where persons have purchased or may hereafter purchase state, school or asylum lands under any act of the legislature authorizing the sale thereof and requiring a residence of three years thereon, and said persons have so resided upon said land or may hereafter reside thereon for the period of three years as required by law, and their files have been or may hereafter be cancelled and purchases annulled by the commissioner of the general land office on account of conflict with other surveys, said persons shall have the right to purchase other lands of the classes mentioned in this article without being required to reside thereon. Persons desiring to avail themselves of the benefits of this provision shall make satisfactory proof to the commissioner of the three years' residence under their first purchase.

Coupling occupancy under second purchase to cure defects of first.
Ib.

Art. 4218n. In all cases where any of the lands mentioned in this chapter have been heretofore sold under any law authorizing the sale thereof, and the original purchaser shall have sold or may hereafter sell any part of his purchase in quantities of forty acres or multiples thereof, and the conveyance to his vendee or vendees is filed in the general land office after having been duly recorded in the proper county, the commissioner and treasurer shall credit his account with the value of the land sold, and they shall open up new accounts with the original purchaser and such vendee or vendees, and the commissioner of the general land office shall patent said land to the owners thereof in quantities of forty acres or multiples thereof; provided, that when any of such land is situated within three miles of a county seat it may be patented in twenty acre tracts.

Vendees of original purchasers protected.
Ib.

Art. 4218o. The commissioner of the general land office is hereby authorized to patent in quantities of not less than one nor more than five acres any of the vacant and unappropriated public domain of Texas or any of the lands mentioned in this chapter as sites for cemeteries, churches or school houses. When the land is desired as a location for a school house, the patent shall issue to the county judge of the proper county and his successors in office in trust for that purpose; and when desired for a church house or a cemetery, it shall be issued to trustees designated by those requesting the patent. If the land has been previously sold by the state and not patented, the owner thereof shall execute a deed therefor to the county judge or trustees, as the case may be, and cause the same to be recorded in the office of the county clerk of the proper county, and to be filed in the general land office, and shall be entitled to credit on his account with the state for the value therefor. Except in case of vacant land the value of the land shall be deposited with the state treasurer, and in all cases the patent fees shall be paid to the commissioner of the general land office before patent issues. Such land shall be taken from the margin of a tract or section or of a subdivision thereof, as the case may be.

Cemetery, church and school-house sites.
Ib.

Art. 4218p. The commissioner of the general land office shall retain in his custody as records of his office all applications, affidavits, obligations and all other papers relating to sales of said lands, and

Accounts, etc., with purchasers to be kept
Ib.

shall cause to be kept accurate accounts with each purchaser. All purchase money due upon lands, as well as accrued interest, and all other moneys arising from the sales or leases of said lands shall be paid by the purchaser or lessee direct to the treasurer of the state, who shall cause an accurate account to be kept with each purchaser, and who shall execute duplicate receipts for all sums of money paid to him under the provisions of this chapter, one of which receipts shall be delivered to the purchaser or his agent, and the other transmitted to the commissioner of the general land office.

Sale of timber on timbered lands, etc.
Ib.

Art. 4218q. The commissioner of the general land office shall adopt such regulations for the sale of timber on the timbered lands as may be deemed necessary and judicious. Such timber shall not be sold for less than five dollars per acre, cash, except in such cases as the commissioner may ascertain by definite examinations by an approved agent appointed by him for that purpose, to be paid by the purchaser, to be sparsely timbered or containing timber of but little value, in which case he may sell the timber on such sections or part of sections at its proper value; provided, such timber is sold at not less than two dollars per acre. The purchaser shall have five years from the date of his purchase within which to remove the timber therefrom, and in case of failure to do so, such timber shall thereby be forfeited to the state without judicial ascertainment; provided, that all timbered lands from which the timber has been cut and taken off may be placed on the market and sold as agricultural or grazing lands, according to classifications to be made by the land commissioner; provided, that the purchaser or his vendees of any such timber shall have the right to purchase the land upon which such timber so purchased is situated at two dollars per acre, cash, at any time before the expiration of five years from date of purchase of timber under the provisions of this chapter.

Lands to be leased; terms, conditions, etc.
Ib.; amend.
p. 75.

Art. 4218r. The public lands and all lands referred to in the several funds mentioned in this chapter shall be leased by the commissioner of the general land office under the provisions of this chapter, at not less than three cents per acre. All lands classified as agricultural and all lands containing permanent water thereon shall be leased for a term of five years or less, and all lands classified as pastoral or dry grazing lands shall be leased for a term of not more than ten years, and the rental shall be paid yearly in advance, the first payment to be made at the time the lease contract is entered into. If at the termination of any lease the lands covered thereby are still for lease, the lessee thereof shall have the preference right to again lease such lands theretofore leased by him upon the terms and at the price then fixed by law. All leases shall be executed under the hand and seal of the land commissioner and delivered to the lessee or his duly authorized agent, and such lease shall not take effect until the first annual rental is paid and such lease thereof duly filed for record in the clerk's office of the proper county, and it shall not be necessary for the commissioner to acknowledge such lease contract so signed and delivered; and all leases under the provisions of this chapter may be advertised by the commissioner in such manner as he may think best, and let to the highest responsible bidder in such quantities and under such regulations as he may think to the best interest of the state not inconsistent with the equities of the occupant. All bids and offers to lease may be rejected by him prior to signing the lease contract, for fraud or collusion or other good and sufficient cause.

Art. 4218s. Any person desiring to lease any portion of the lands ^{Same.} belonging to any of the funds mentioned in this chapter shall make ^{1b.} application in writing to the commissioner of the general land office, specifying and describing the particular lands he desires to lease, and thereupon the commissioner, if satisfied that the lands applied for are not in immediate demand for purposes of actual settlement, shall notify the applicant in writing that his proposition to lease is accepted, and thereupon he shall execute and deliver to the lessee, in the name and by the authority of the state of Texas, a lease of said land for such term as may be agreed upon, and deliver the same to such lessee when satisfied that the lessee has paid to the treasurer of the state the rent for one year in advance. No lands which are now or may hereafter be classified as grazing or pasture lands shall be subject to sale, nor shall the possession thereof by the lessee be disturbed during the term of such lease, except as herein provided, so long as the rents are paid promptly in advance each year, as required by this chapter. Any actual settler upon any of the lands mentioned in this chapter, being the head of a family, shall have the right to buy at any time not more than three additional sections of strictly pasture lands, notwithstanding any lease thereof, unless by some other actual settler, the head of a family, leasing not more than three sections. Whenever any lease-holder has leased from the state of Texas exceeding ten sections, any actual settler, being the head of a family, shall have the right to lease within a radius of five miles of the land occupied by him not exceeding three sections of the land held by such larger leaseholder, but shall not be allowed thereby to reduce the larger leasehold to less than ten sections; provided, that any man not the head of a family shall have this preference right to lease three sections after having placed two hundred dollars worth of improvements on the section purchased by him; provided, that in all cases where the actual settler having purchased one section of land is permitted by the provisions of this article to buy or lease additional lands, and thus terminate the lease of the larger leaseholder, he shall be required to so select such additional lands sought to be purchased or leased by him as that by an exchange of lands, section for section and acre for acre, of like quality and class with the larger leaseholder, he can secure the quantity of land he desires to purchase or lease in a solid body; and in case the larger leaseholder desires to do so the actual settler so purchasing or leasing the additional lands in this article mentioned shall make such exchange with him, and shall be required to fence the same separate and apart from the lands of the larger leaseholder; but in no case shall the actual settler be allowed to purchase or lease the lands and terminate the lease of the larger leaseholder under the provisions of this article upon which there is a permanent natural or artificial water supply; and in no case shall such actual settler be permitted to so select such additional lands for purchase or lease as that by an exchange of lands with the larger leaseholder such larger leaseholder will be required to give in exchange any lands upon which there may be a permanent natural or artificial water supply, or upon which there may be improvements of the value of two hundred dollars. In case the larger leaseholder does not desire to exchange lands, as herein provided, with the actual settler, or upon request made by such actual settler refuses to do so within a reasonable time, then he shall not be required to fence his land, but may turn loose inside of any inclosure in which his lands may be situated not more than one head of cattle or horses, or in

lieu thereof four head of sheep or goats, for every ten acres of land so purchased or leased by him; provided, further, that nothing herein shall be construed so as to prevent either lessee from fencing his own land from the other if he should desire to do so, or to require the small leaseholder to fence his lands at all unless the larger leaseholder shall have his leasehold fenced; and provided further, that nothing in this article shall be so construed as to permit any actual settler, either by purchase or lease, or by both, to terminate the lease of the larger leaseholder upon more than four sections; and provided further, that north of a line extending west from the southeast corner of Callahan county to the southeast corner of Martin county; thence north to the south line of Lynn county; thence west to the southwest corner of Lynn county; thence north to the south line of Castro county; thence west to the line of New Mexico, the settler exercising the preference right herein given to buy or lease within the enclosure of another may so buy or lease any lands except a section on which there are improvements of the value of two hundred dollars, or on which there is a permanent artificial water supply, and shall not be required to enclose his lands separate from the lands of the larger leaseholder unless he can obtain the full amount of four sections in a solid body, or unless the same can be secured in a solid body by exchange of lands for the term for which he leases, section for section or acre for acre, with the larger leaseholder; and in all cases where he is not required by the provisions of this chapter to enclose his lands he may turn loose not more than one head of horses or cattle, or in lieu thereof four head of sheep or goats, for every ten acres of land purchased or leased by him and unenclosed. Each violation of the provisions of this chapter which restricts the number of stock that may be turned loose on lands leased from the state shall be an offense, and the offender, on conviction, shall be punished by a fine of one dollar for each head of stock he may so turn loose, and each thirty days violation of the provisions of this article shall constitute a separate offense. Any agricultural land that may be leased by an actual settler shall be subject to sale and settlement, but in case his lease does not embrace more than three sections, only on condition that the purchaser enclose with posts and at least two wires the land purchased by him separate from the land held by the lessee, and failure to so enclose it within three months from the date of the purchase shall be sufficient cause to authorize the commissioner to cancel the contract of purchase and reinstate the lease. In all cases where the lease is terminated under any of the provisions hereof, before the expiration of the term of lease, the lessee shall have a pro rata credit upon his next year's rent, or the money refunded to him by the treasurer, as he may elect. On the expiration of his lease or its termination under any provision of this article the lessee shall have the right for a period of sixty days to remove any or all the improvements he shall have placed upon the leased premises.

same; appli-
cations for
conditional
lease.
Ib. p. 63.

Art. 4218t. Any person desiring to lease any portion of the lands aforesaid on which no permanent water supply exists, shall notify the commissioner of the general land office in writing that he desires to lease lands, specifying and describing them, provided he can obtain the necessary supply of water by boring or otherwise, and that he will within ninety days lease said lands, provided such water supply can be obtained; he shall also make and file with the commissioner of the general land office his bond, with good and sufficient per-

sonal security in a sum equal to one year's rental of the quantity of land applied for, payable to the state of Texas, conditioned that he will diligently and in good faith try to secure water on such land during such ninety days, and if secured will lease the designated lands for the term prescribed herein, and thereupon the commissioner shall for such ninety days withhold the lands thus designated from lease to any other person; within or at the expiration of said ninety days and annually thereafter such applicant to lease shall pay to the state of Texas, in advance, one year's rental of the land applied for by him, on satisfactory proof of which payment the commissioner shall execute and deliver to the lessee a lease of the said lands, signed by himself officially and attested by the seal of the land office, together with which he shall deliver up the bond of said lessee, marked "Satisfied." If the said lessee shall fail to apply for his lease and make the payment aforesaid within said ninety days, and shall also within said ninety days fail to make proof to the satisfaction of the commissioner of the general land office within that time that he has in good faith and diligently used proper means and expended proper efforts to secure a water supply on such land and failed, then and in that case the commissioner shall mark said bond "Forfeited," and shall deliver the same to the attorney general of the state, who shall at once cause the said bond to be sued upon and collected; and such collection shall become a part of the available school fund. The penalty stated in such bond is hereby declared to be liquidated damages, and judgment for that sum shall in all cases be recovered by the state. Proof satisfactory to the commissioner of the general land office that proper, suitable and diligent effort had been made by such applicant to secure water, and that sufficient water could not be secured, shall relieve the principal and sureties on said bond from all responsibility therein, and it shall be marked "Satisfied" by said commissioner and delivered to the principal therein. No lease of less than four sections of unwatered pasture lands shall be made unless such less number includes all unleased land in that vicinity belonging to the several funds mentioned in this chapter. Lessees or their vendees who shall have at their own expense secured water on their leaseholds in accordance with the provisions of this article shall, at the expiration of their lease contract, have the right to a renewal of their leases for another term of five years at the price then provided by law, by giving sixty days' written notice to the commissioner, as provided in the preceding article.

[Note.—Section 20 of the act of April 4, 1895, p. 72, was repealed by the act of April 16, 1895, p. 75.]

Art. 4218u. All lessees shall pay the annual rents due for leased lands directly to the treasurer of the state, who shall execute receipts in duplicate for each payment made by any lessee, one of which receipts shall be delivered to the lessee and the other transmitted to the commissioner of the general land office. The treasurer shall cause to be kept an accurate account with each lessee, and the commissioner of the general land office shall file in his office all applications and other papers relating to leases, and keep a record of all leases made, which papers shall constitute a part of the records of his office.

Payment of
rents, how
made.

Art. 4218v. If any lessee shall fail to pay the annual rent due in advance for any year within sixty days after such rents shall become due, the commissioner of the general land office may declare such

Leases, how
cancelled for
non-payment
of rents.
Ib.

lease cancelled by a writing under his hand and seal of office, which writing shall be filed with the other papers relating to such lease, and thereupon such lease shall immediately terminate, and the lands so leased shall become subject to purchase or lease under the provisions of this chapter. Such lease shall not be made to original lessees until all arrears are fully paid. During the continuance of all leases, and after forfeiture, the state shall have a lien upon all property owned by the lessee upon the leased premises to secure the payment of all rents due, which lien shall be superior to all other liens whatsoever; and it shall not be essential to the preservation or validity of such lien that it shall be reserved in the instrument of lease.

Lessees privileged to purchase; personal property in improvements.
Ib.

Art. 4218w. Lessees shall have the right at any time to purchase their leased lands, subject to the limitations as to quantity provided by this chapter, and at the price and on the conditions herein provided, without reference to any improvements made on such lands by such lessees; and all improvements made by lessees on lands leased by them are hereby declared to be personal property, which may be removed by such lessees on the expiration of their lease contracts; and they shall have sixty days after such expiration in which to remove the same.

Suits to recover lands illegally occupied.
Ib., amend.
p. 75.

Art. 4218x. If the governor shall at any time be credibly informed that any portion of the public lands or the lands belonging to any of the several funds named in this chapter have been enclosed or that fences have been erected thereon without authority of law, he is authorized in his discretion to direct the attorney general to institute suit in the name of the state for the recovery of such lands and damages, and a fee of not less than ten dollars for the attorney when the sum recovered is less than one hundred dollars, and when it is over that sum the fee shall be ten per cent, to be paid by the defendant for the use and occupancy of the same, and the removal of such enclosures and fences; and such damages shall not be for a less sum than the amount of all the leases due during such occupancy. For the recovery by the state of all lands sold under the provisions of this or former laws which have been or may hereafter be forfeited to the state for any reason, and for the recovery of any money due the states on leases made under this or former laws, and for the recovery of damages for the unlawful use and occupancy of such lands, as provided in this article, or any former laws, jurisdiction is expressly conferred on the courts of Travis county having jurisdiction thereof under the constitution concurrently with courts of the districts in which the land is situated, and all such suits shall be instituted by the attorney general or under his direction. In suits provided for in this article, the court shall issue a writ of sequestration directed to any sheriff of the state, commanding and requiring such officer to take such land and all property thereon belonging to the person or persons so unlawfully occupying said lands into his actual custody, and hold the same subject to further orders of the court, and the state shall not be required to give bond. Such writ of sequestration may be executed by any sheriff of the state into whose hands it may be delivered, and it shall be the duty of any sheriff into whose hands it may come to proceed and execute such writ. The defendant in such suit may replevy as in ordinary cases by giving bond as prescribed by law, and such cases shall have precedence on the docket and stand for trial before all other cases; and in case judgment is recovered by the state in such suit the court shall order such enclosure or fences to be removed, and

shall tax the costs of the suit against the defendant, and all property found upon the land belonging to the defendant, not exempt from execution, shall be liable to the payment of such costs and damages in addition to the personal liability of the defendant. Appeals may be prosecuted from all judgments in such cases as in ordinary cases, except that the state shall not be required to give bond to perfect its appeal, and such cases on appeal shall have precedence over all other cases. If any person shall make a lease contract, and after the same is enclosed by fence shall for any cause decide not to continue payment of his lease, either in whole or in part, he shall give public notice by publication in any local paper having the largest circulation, for at least sixty days before the time in which his next annual payment shall become due, that he will not continue his lease after the year for which payment is made, and shall also state the number and block of the land which he will not lease inside his inclosure, if he only intends to surrender a part of his lease, and shall post and shall keep posted for said sixty days notice on all gates of his pasture of such intention; then, and then only, he shall not be subject to the suit nor liable for the damages provided for in this article.

[Note.—For penalties for violations of this chapter see Penal Code.]

Art. 4218y. The commissioner of the general land office may withhold from lease any agricultural lands necessary for purposes of settlement; and no agricultural lands shall be leased if in the judgment of the commissioner they may be in immediate demand for settlement, but such lands shall be held for settlement and sold to actual settlers only under the provisions of this chapter; and all sections or fractions of sections in all counties organized prior to the first day of January, 1875, except El Paso, Pecos and Presidio counties, which sections are detached and isolated from other public lands, may be sold to any purchaser except to a corporation without actual settlement, at not less than two dollars per acre, upon such terms as the commissioner of the general land office may prescribe.

Certain lands withheld from lease. *Ib.*, p. 63.

TITLE LXXXVIII.

Public Printing.

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Board of public printing provided for. (Act June 27, 1876, p. 31, §§1, 16.)

Record of the proceedings of the board, etc. Ib. §16.

Board shall contract for public printing, etc. Ib. §1.

Article 4219. [3990] The attorney general, the state treasurer and the secretary of state shall constitute a board of public printing, and a majority of the board shall constitute a quorum for the transaction of business.

Art. 4220. [3991] The secretary of state shall keep a record of the proceedings of the board and of all acts done by him in connection with the public printing, under the provisions of this title.

Art. 4221. [3992] The board of public printing are authorized and required to contract, as hereinafter prescribed, with some suitable person or persons, who shall be a resident of this state, to print and bind the laws and the journals of the senate and house of representatives, and to do such other printing and binding, and to furnish such stationery as may be required by law, or may be needed by any department of the state government or by either house of the legislature, not to include such work as may be done at the deaf and dumb asylum, nor such stationery, printing and binding as may be needed by the judicial department. They are authorized to make a separate contract when printing is to be done in any other language than the English, and in such case the printing board shall employ a competent person, at a price not to exceed thirty cents per hundred words, to translate the matter required into such other language.

Art. 4222. [3993] The board of public printing shall be authorized to employ a competent practical printer at a salary not to exceed seventy-five dollars per month, who shall be ex officio instructor in the art of printing at the deaf and dumb asylum, and whose further duty it shall be to advise with and assist the board in advertising for proposals for printing and stationery, and in making contracts therefor, and to examine the work done and stationery furnished under such contracts, and to certify to the board whether the same are correct and in accordance with law and with the contracts of the contractors.

An expert may be employed, etc. Ib. §15. (Act March 13, 1876, p. 91, §1.)

Art. 4223. [3994] The public printing shall be divided into four classes, as follows:

Printing
classified.
Prices to be
paid.
(Acts of 1885,
p. 100.)
First class.

First—The first class shall include the printing and binding of the laws, journals, department reports, governor's messages and like documents, which shall be printed on white calendered book paper of uniform color, twenty-five by thirty-eight inches in size and weighing not less than forty-five pounds to the ream, from long primer type (except tabular work, which may be from such type smaller than long primer as the nature of the work and good taste may require); the pages of the laws, department reports, governor's messages and like documents to be twenty-six ems pica wide and forty-six ems pica long, including head and foot lines, and to contain not less than eighteen hundred and twenty-four ems; and the journals shall be printed in octavo form, the pages to be twenty-six and one-half picas wide and forty-six ems pica long, including head and foot lines, from brevier type, two columns to the page, each column thirteen ems pica wide, and each page to contain not less than twenty-eight hundred ems. When printed the laws and reports shall be neatly folded, stitched, covered and trimmed, and the journals and messages folded, stitched and trimmed. Cover paper shall be not less than thirty-five pounds to the ream. The index to the laws shall be printed from brevier type, and the index to the journals from nonpareil type. The maximum prices for the material and work of the first class shall be: For paper, white and cover, per pound, fifteen cents, and no allowance shall be made for waste; composition, seventy-five cents per one thousand ems, printer's measurement; press work, sixteen pages to the form, unless the nature of the work requires a smaller number of pages, fifty cents a token of two hundred and forty impressions or less; binding, forty cents per one hundred for folding, stitching, covering and trimming first signature of sixteen pages, and twenty cents per one hundred for each additional signature of sixteen pages or less; for folding, stitching and trimming without covering, thirty cents per one hundred for first signature of sixteen pages, and fifteen cents per one hundred for each additional signature of sixteen pages or less. No matter shall be leaved except by the express direction of the printing board. The printing board shall, at the same time the contract is let for the printing of the journals of the two houses of the legislature, include in said contract the printing and delivery of each day's proceedings of the two houses while in session, the same to be printed in octavo form as provided in this act for the printing of the regular journals of the two houses, five hundred copies for the use of the house of representatives, and two hundred copies for the use of the senate, the same to be delivered by the hour of meeting of the day following that on which such proceedings were had.

Second—Work of the second class shall consist of all blanks and printed stationery required by any department of the state government except the judicial department, and shall be on first class sized and calendered white wove unruled flat papers of such dimensions and weights as the nature of the work may require. The maximum prices for such work shall be as follows: For composition, fifty cents per one thousand ems, printer's measurement; for press work on forms the size of flat cap sheet or less, forty cents per token; on forms larger than flat cap, fifty cents per token; and a token shall be two hundred and forty impressions or less when the number of

Second class.
(Acts of 1885,
p. 100-2-3.)

copies of a job ordered shall require a less number of impressions. The maximum price for paper required for work of the second class shall be twenty-five cents per pound. For ruling work of the second class the maximum price shall be twenty cents per one hundred sheets for each actual and necessary passage through the ruling machine. For numbering, with a numbering or paging machine, per one hundred pages, or per one hundred numbers, ten cents. For binding work of the second class the maximum price shall be: For pads of one hundred copies each, of any printed job, quarter-sheet cap, demy, post or medium, per pad five cents; for pads of two hundred copies of any printed job, half-sheet cap, demy, post or medium, per pad ten cents; for quarter binding quarter-sheet cap, demy, post or medium, per quire ten cents; for quarter binding half-sheet cap, demy, post or medium, per quire fifteen cents; for quarter binding whole sheet cap, demy, post or medium, per quire twenty cents; for half binding quarter-sheet cap, demy, post or medium, per quire twenty-five cents; for half binding half-sheet cap, demy, post or medium, per quire thirty-five cents; for half binding whole sheet cap, demy, post or medium, per quire forty-five cents. A quire within the meaning here intended for binding work of the second class is not less than forty leaves.

Third class.

Third—Work of the third class shall consist of blank books, either ruled and printed, or ruled without printing. The paper shall be made of linen stock, and of the quality known among paper dealers as "P" paper; and the maximum prices shall be as follows: Cap paper, eighteen pounds to the ream, plain ruled, half bound, sixty cents per quire; ditto, printed heads, eighty-five cents per quire; ditto, plain ruled, extra full bound, one dollar per quire; ditto, printed heads, one dollar and twenty-five cents per quire. Demy paper, twenty-eight pounds to the ream, plain ruled, half bound, seventy-five cents per quire; ditto, printed heads, one dollar per quire; ditto, plain ruled, extra full bound, one dollar and twenty-five cents per quire; ditto, printed heads, one dollar and fifty cents per quire. Medium paper, forty pounds to the ream, extra full bound, Russia leather ends and bands, canvas cover with Russia leather corners, plain ruled, three dollars per quire; ditto, printed heads, four dollars per quire. Super royal paper, fifty-four pounds to the ream, extra full bound, Russia leather ends and bands, canvas cover with Russia leather corners, plain ruled, four dollars and fifty cents per quire; ditto, printed heads, five dollars per quire. A quire shall not be less than forty leaves in work of the third class. No extra charge to be allowed for vowelings, paging, labeling, lettering or gilding. Where changes in the printed heads occur in any blank book ordered, the maximum price shall be fifty cents for each change in the ruling and printing together.

Fourth class.

Fourth—Work of the fourth class shall consist of the printing of bills, resolutions, committee reports and such other like work as may be ordered by the legislature, or either house thereof, and shall be on first class sized and calendered white wove flat cap paper of fourteen pounds to the ream, printed on pica type, lines numbered in the margin, with space between the lines of the size of pica, the printing to be thirty-six ems pica wide and sixty-five ems in length. The maximum price for work of the fourth class shall be: For two hundred copies, or any number of copies less than two hundred, ordered by either house of the legislature, including composition, paper, press work and binding, two dollars per page for as many

pages as are contained in one copy thereof, and when more than two hundred copies of work mentioned in this class are ordered by either house of the legislature the printer shall be paid only for the paper, press work and binding of such additional copies at such rates as are contracted for, for work of the second class; provided, that the printing board in having schedules prepared for the use of bidders for the first and second classes of printing, may fix other and lower maximum prices than those designated in this article for work and material of the first and second classes of printing; and that such schedules may call for bids by the ream on all papers required for the first and second classes, giving dimensions and weights, in no wise to exceed the basis of twenty-five cents per pound, or may call for bids by the pound for all papers required for said classes; and provided, that the printing board may in their discretion receive separate proposals and make separate contract for furnishing in part or all the printing papers required under the provisions of this article for the printing of the first and second classes, under like conditions required by law for contracts to do the printing and furnish the paper; and in event of such separate contract the printing board shall cause the papers so furnished to the state to be delivered to the contractor to do the printing and binding, on written requisition of such contractor, and under proper guards and checks, at such times and in such quantities as the requisites of any job or jobs of printing may require.

Art. 4223a. [3993] No contract with the public printer shall be made for the publication of executive proclamations, advertisements, and other like documents; but the maximum price for such work shall be one dollar per square of one hundred words for the first publication, and fifty cents per square for each subsequent publication that may be ordered, and fractional parts of a square at proportionate rates, and each square shall contain not less than one hundred words.

Proclamations, etc.; how published. (Amend. 1895, No. 73, Sen. Jour., p. 482.)

Art. 4224. [3996] When proclamations, advertisements and like publications are authorized or required by law to be published in more newspapers than one they shall be published under like rules; provided, that proclamations and like documents shall not be published in more than two newspapers in each congressional district, and at different points, and shall not be inserted for a longer period than three months; and proposed amendments to the constitution shall be published once a week for four weeks, commencing at least three months before the time specified by the legislature for an election thereon, in one weekly newspaper in each county in which such newspaper may be published; and all claims presented for publishing advertisements shall be accompanied by a copy of the advertisement as printed, and shall state the dates when the same was published.

When published in more than one newspaper. (Acts of 1876, p. 31, §4.)

Art. 4225. [3997] The maximum rates for stationery shall be as follows:

Stationery, maximum prices of. Ib. §5.

Legal cap paper—Eighteen pounds to the ream, \$7.20 per ream; sixteen pounds to the ream, \$6.40 per ream; fourteen pounds to the ream, \$5.60 per ream.

Foolscap paper—Sixteen pounds to the ream, \$6.40 per ream; fourteen pounds to the ream, \$5.60 per ream.

Letter paper—Twelve pounds to the ream, \$4.80 per ream; ten pounds to the ream, \$4.00 per ream.

Note paper—Eight pounds to the ream, \$3.20 per ream; six pounds to the ream, \$2.40 per ream; five pounds to the ream, \$2.00 per ream.

Engrossing paper—Twenty-eight pounds demy, one-quarter sheets, \$7.20 per ream; eighteen pounds cap, one-half sheets, \$8.00 per ream.

Envelopes—XX white or buff, number ten, plain, \$7.20 per thousand; printed, \$8.80 per thousand; XX white or buff, number six, plain, \$4.80 per thousand; printed, \$6.40 per thousand; XX white or buff, number five, plain, \$4.00 per thousand.

Blotting paper—One hundred and twenty pounds to the ream, \$6.40 per one hundred sheets; one hundred pounds to the ream, \$5.20 per one hundred sheets.

Pencils—The kind to be specified in bid, \$8.00 per gross.

Red ink—The manufacturer to be named in bid, \$2.40 per dozen.

Mucilage—Quarts, \$7.20 per dozen; pints, \$4.80 per dozen.

Steel pens—Brand to be named, \$2.00 per box.

Penholders—\$5.60 per gross.

Rubber bands—Best, all sizes, \$2.40 per box.

Mammoth ink and pencil erasers—\$4.00 per dozen.

Rubber rulers—Twelve inch, \$1.20 each.

Wood rulers—Fifteen inch, eighty cents each.

Erasing knives—Eighty cents each.

Recording ink—Maker to be named in bid; quarts, \$14.40 per dozen.

Copying ink—Maker to be named in bid; quarts, \$19.20 per dozen.

Inkstands—C. H. number three, sixty cents each; glass, flat, eighty cents each.

Paper fasteners—Forty cents per box.

Other printing and stationery.
Ib. \$6.

Art. 4226. [3998] All printing and stationery not embraced within the provisions of the preceding articles of this title shall be furnished by the contractor at rates proportionate to those stipulated for in the contract for work and stationery of similar character, to be fixed by the board of public printing.

Current printing of legislature to be done at Austin.
Ib. \$12.

Art. 4227. [3999] The current printing of the legislature shall be done at the seat of government.

Number of copies of laws, etc. (Acts of 1883, p. 5.)

Art. 4228. [4000] There shall be printed not less than eight thousand copies of the laws of a general nature, and as many more as the printing board may require, not to exceed twelve thousand in all; and fifteen hundred copies of the special laws, including all acts for private relief, all acts incorporating towns and cities, all acts having a local application, all of a personal nature, and all acts incorporating private associations of every description that may be passed at each session of the legislature; and one thousand copies of the journals of each house of the legislature.

Of the governor's message, etc. (Acts of 1876, p. 31, §7.)

Art. 4229. [4001] There shall be printed such number of copies of the messages of the governor and other documents as the legislature or either house thereof may order.

Of other public documents.
Ib. \$8.

Art. 4230. [4002] There shall be printed, under the supervision of the secretary of state, eleven hundred copies of the annual reports of the comptroller of public accounts, treasurer, commissioner of the general land office, superintendent of the penitentiary, superintendent of the lunatic asylum, of the asylums of the blind, deaf and dumb, and the reports of all other officers who are required to report to the governor or the legislature; three hundred copies of which reports shall be delivered by the secretary of state to the two houses of the legislature for their use, at as early a day as practicable after they

are printed; three hundred copies shall be delivered to the officer making the report for his use, and the remaining five hundred copies shall be kept by the secretary of state for public use, but the printing board may increase the number of copies of such reports required to be printed, not to exceed two thousand.

Art. 4231. [4003] It shall be the duty of the secretary of state, on the first day of August next, and every two years thereafter, or as soon after the first day of August as may be practicable, to advertise for sealed proposals to furnish said stationery and to do such public printing and binding as may be required by the several departments of the government under the provisions of this title. Such advertisement shall be published for thirty days in not less than two nor more than five newspapers published within the state and having the largest circulation therein. It shall invite separate proposals to furnish the stationery and to do the printing and binding, and shall state as nearly as practicable the probable amount of such printing, binding and stationery which will be required under the contract. It shall also state the time and place of opening the bids and of awarding the contract, which shall be at the office of the secretary of state, not exceeding forty days from the date of the first publication of such advertisement.

Advertisement for proposals to do public printing, etc.
Ib. §9.

Art. 4232. [4004] Separate proposals shall be made for furnishing the stationery and for doing the printing and binding, and the proposals for printing and binding shall embrace all such work as is included under articles 4223 and 4225, except such as may be done at the deaf and dumb asylum, and the material therefor; and the proposals for stationery shall embrace all material specified in article 4225, and such other articles as are usually included under the term stationery.

Proposals to include, what.
Ib. §10.

Art. 4233. [4005] Each bid shall be accompanied by the bond of the bidder, with two or more good and sufficient sureties, conditioned that should the contract be awarded to him, he will, without delay, upon being notified of such award, enter into a written contract in accordance with law, and with his said proposal, and will give bond and security, as required by law, for the faithful performance of such contract.

Bid to be accompanied by bond.
Ib. §2.

Art. 4234. [4006] No member or officer of any department of the government shall be in any way interested in such contract, except in contracts for the translation of any public document into some other language.

No officer to be interested in contract.
Ib. §17.

Art. 4235. [4007] Such proposals shall be sealed and addressed to the secretary of state at the seat of government, and shall be indorsed with a memorandum showing that they are proposals for the public printing and binding, or for stationery for the several departments, as the case may be; and upon their receipt they shall be filed by the secretary of state, and the seals thereof shall not be broken until the day named in the advertisement for awarding the contracts, when they shall be opened in the presence of the printing board and such bidders and others as may desire to be present.

Proposals, to whom addressed.
Ib. §2.

Art. 4236. [4008] It shall be the duty of the printing board on the day fixed in such advertisement, or as soon thereafter as practicable, to make a careful examination and comparison of such bids and to award the contracts to the lowest and best responsible bidder whose bid may be below the maximum rates as herein prescribed; provided, such bid shall be approved by the governor and comptroller of public accounts.

Awarding of contract.
Ib.

Successful
bidders to be
notified.

Art. 4237. [4009] It shall be the duty of the secretary of state, upon the making of such awards, immediately to notify the successful bidders, respectively, of the acceptance of their said bids, and that they will be required without delay to execute and deliver to him their contracts with the state for the due performance of their said undertakings.

Requisites of
the contract.
Ib. §12.

Art. 4238. [4010] Such contract shall be in writing and shall be signed by the bidder, with two or more good and sufficient sureties, to be approved by the printing board in such sum as they shall prescribe, made payable to the state, and conditioned for his faithful compliance with his bid and with the provisions of the law relating thereto, for the period of two years, and until a new contract shall have been made and approved; the contract shall also be signed on behalf of the state by the members of the printing board, and shall be approved by the governor and comptroller and filed in the office of the secretary of state.

Suits on con-
tractor's bond.
Ib.

Art. 4239. [4011] On breach by the contractor of the bond provided for in the preceding article the same may be put in suit on the order of the governor, and such suit may be brought in the proper court of the county in which the seat of government may be, and such bond shall not become void on the first recovery, but suits may be maintained thereon until the whole amount thereof shall be recovered.

Secretary of
the senate and
chief clerk of
house to fur-
nish journals,
etc., to con-
tractor.
Ib. §9.

Art. 4240. [4012] It shall be the duty of the secretary of the senate, and of the chief clerk of the house of representatives, to deliver to the contractor for the public printing the journals of their respective houses for the purpose of being printed, together with a comprehensive index to the same, to be printed at the end thereof; and it shall be the duty of the contractor to carefully use the same, and to return them without delay, uninjured, to such secretary and clerk respectively when the printing thereof is completed.

Secretary of
state to fur-
nish laws, etc.
Ib.

Art. 4241. [4013] It shall be the duty of the secretary of state to deliver to such contractor, as soon as practicable after their passage or approval, copies of all laws and resolutions adopted by the legislature, together with a comprehensive index to the same.

Secretary of
state to com-
pare copies
and certify,
etc.
Ib. §§9, 11.

Art. 4242. [4014] It shall also be the duty of the secretary of state to read and revise the proofs of such laws and resolutions and to superintend the printing of the same and to compare the same with the originals in his office, and to certify that the laws and resolutions as published are true copies of such originals; which certificate, together with a statement of the date on which the legislature adjourned, shall be appended to and printed at the end of each volume of such laws and resolutions. But the provision requiring the secretary of state to read and revise the proofs shall not dispense with the duty of the contractor to see that such proofs are properly read and corrected.

Work to be
delivered to
whom.
Ib. §10.

Art. 4243. [4015] The whole number of laws and journals, reports of public officers and other public documents authorized to be printed, shall be delivered to the secretary of state at his office, except such printing as may be ordered by the two houses of the legislature, or either of them, for their use, which shall be delivered to such persons at such times as such houses, or either of them, may direct.

When to be
delivered.
Ib. §11.

Art. 4244. [4016] The laws and journals shall be delivered within sixty days after the last copy shall have been furnished to the contractor. The reports of public officers shall be delivered to the

governor by the respective officers making the same in sufficient time to be delivered to the contractor one month before the meeting of the legislature, and if so furnished to said contractor shall be delivered by him to the secretary of state within the first week of said session; and if furnished less than one month before the meeting of the legislature, or after, the same shall be delivered by the contractor to the secretary of state within one month after they are so furnished.

Art. 4245. [4017] All accounts for printing done or stationery furnished, under the provisions of this title, except that for the legislature when in session, shall be audited as follows: The account shall be verified by the affidavit of the contractor that said account is just and correct; that the amount of work charged for has actually been performed, or the actual amount of stationery delivered, and that the prices charged in said account are in accordance with the stipulations of the contract, and shall be accompanied with a sample of the work done and stationery furnished. After which it shall be examined by the practical printer and printing board, and if found correct, approved by said board. Such claim, when thus examined and approved, shall be sufficient authority for the comptroller to issue his warrant, to be paid out of the appropriations for public printing or stationery.

Account, how audited and paid.
Ib. §13.

Art. 4246. [4018] All accounts for printing done or stationery used in either house of the legislature shall, in addition to the requirements contained in the preceding article, be approved by the chairman of the committee on public printing and the chairman of the committee on contingent expenses of the house ordering the work, before being presented to the printing board; for which account, when thus approved, the comptroller is authorized to draw his warrant, payable out of the contingent fund.

Accounts for current printing of legislature.
Ib. §14.

Art. 4247. [4019] It shall be competent for the legislature, at any time, to change by law the maximum rates hereinbefore prescribed for stationery or printing and binding, and should the contractors decline to do such work, or to furnish such stationery at the maximum rates so fixed, the printing board shall immediately proceed to re-let such contract.

Legislature may alter maximum rates, etc.
Ib. §17.

Art. 4248. [4020] The contracts for printing and stationery herein provided for may be abrogated by the legislature when in session, or by the printing board, with the consent of the governor and comptroller, when the legislature is not in session, if the contractor should fail to perform the work or to furnish the supplies in accordance with law and with his contract, and as promptly as the exigencies of the public service demand.

Contract may be abrogated, when, etc.
Ib.

Art. 4249. [4021] Should there be no bid for the public printing or stationery within the maximum rates as fixed by law, or should the successful bidder fail to execute the bond with security as herein required, or should the contract be abrogated, it shall be the duty of the printing board, with or without advertisement, as the interest of the state and the exigencies of the public service may seem to require, to proceed to let out a new contract as hereinbefore provided; and they may, in their discretion, make such temporary arrangements to meet the emergency as is demanded by the public interest.

Board may re-let contract, etc.
Ib.

Art. 4250. The reporters for the supreme court and court of criminal appeals shall be furnished by the state printing board with all stationery necessary for the performance of their duties.

Supplies to reporters, (Acts 1889, p. 7, §2.)